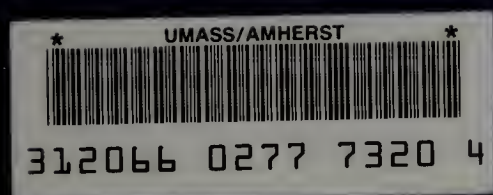


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Office of the Attorney General Commonwealth of Massachusetts

The Sexual Abuse of Children in the
Roman Catholic Archdiocese of Boston

A Report by the Attorney General



THE COMMONWEALTH OF MASSACHUSETTS

OFFICE OF THE ATTORNEY GENERAL

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July 23, 2003

TO THE PEOPLE OF THE COMMONWEALTH OF MASSACHUSETTS

The education, care and protection of our children are among the most important undertakings of our society. In the past one hundred years, we in the United States and the Commonwealth of Massachusetts have made great gains in how we protect our children - and our nation and state have been the better for it. It was with this single motivation - to protect children - that in January 2002, the Office of the Attorney General undertook to address the massive and prolonged mistreatment of children by priests assigned to the Roman Catholic Archdiocese of Boston; and it is with this single motivation that the Office of the Attorney General submits the accompanying report of what it did and learned.

Throughout the history of the United States, the Catholic Church in America has been responsible for countless good works. Outside of government, it is probably the country's foremost social services provider: feeding the hungry, caring for the old, the weak and the dispossessed, and fighting in the name of social justice. Its schools and universities have educated generations of children. And thousands of devout and honorable priests provide the Church's followers with moral and spiritual guidance every day.

But in the past twenty years, events have revealed a dark side to the Church's relationship with its children. In the early 1980's, and again in the early 1990's, the sexual assault of scores of children by individual priests came to light. Then, eighteen months ago, we began to learn of a tragedy of unimaginable dimensions: According to the Archdiocese's own files, 789 victims have complained of sexual abuse by members of the clergy; the actual number of victims is no doubt higher. The evidence to date also reveals that 250 priests and church workers stand accused of acts of rape or sexual assault

of children. This widespread assault on children has occurred for at least six decades under the administrations of three successive Archbishops; clearly, this massive assault is the responsibility of no one person or administration. The facts learned over the past eighteen months describe one of the greatest tragedies to befall children in this Commonwealth. Perhaps most tragic of all, much of the harm could have been prevented.

When the Office of the Attorney General undertook to address the widespread sexual abuse of children within the Archdiocese, it set three objectives: to determine whether sexual abuse of children within the Archdiocese was recent or ongoing; to determine whether the Archdiocese or its senior managers had committed crimes under applicable state law; and to use all available means to ensure that children within the Archdiocese would be safe in the future. Concurrently, the Commonwealth's District Attorneys assumed responsibility for investigating and prosecuting individual priests and church workers accused of sexually abusing children.

In pursuit of its objectives, the Office of the Attorney General initiated an extensive investigation, which involved prosecutors, State Police, civilian investigators and the Grand Jury. It worked with the District Attorneys and the Legislature to enact important changes in our laws. And it undertook substantial efforts to have the Archdiocese adopt policies and procedures to protect children from sexual assault. Based on these activities, I report the following:

- The investigation of the Office of the Attorney General did not produce evidence of recent or ongoing sexual abuse of children; but it is far too soon to conclude that the abuse has stopped and will not reoccur in the future.
- The investigation did not produce evidence sufficient to charge the Archdiocese or its senior managers with crimes under applicable state law.
- The investigation did produce evidence that the widespread abuse of children was due to an institutional acceptance of abuse and a massive and pervasive failure of leadership.

I have determined that based on my conclusions and in order to ensure that children will be safe in the future, this report is essential. It is essential to create an official public record of what occurred. The mistreatment of children was so massive and so prolonged that it borders on the unbelievable. This report will confirm to all who may read it, now and in the future, that this tragedy was real.

It is essential to create an official record of what occurred because although this Office is unable to charge crimes, the conduct of the Archdiocese and its senior managers was undeniably wrong. For decades, Cardinals, Bishops and others in positions of

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authority within the Archdiocese chose to protect the image and reputation of their institution rather than the safety and well-being of children. They acted with a misguided devotion to secrecy and a mistaken belief that they were accountable only to themselves. They must be held to account, if not in a court of law, then before the ultimate arbiter in our democracy: you, the people.

Finally, it is essential to create an official public record of what occurred so that this type of widespread abuse of children might never happen again here or elsewhere. New laws enacted by our Legislature create important tools to prevent widespread and systematic abuse of children, and dedicated prosecutors are ready and willing to enforce those new laws. Nevertheless, the failure of Archdiocese leadership has been too massive and too prolonged; and the Archdiocese has yet to demonstrate a commitment to reform proportional to the tragedy it perpetrated. Until the Archdiocese clearly demonstrates an understanding of what occurred and how to provide a safe environment for its children, there must be a period of vigilance by the public and its officials and by members of the Archdiocese, including priests and the laity.

To assure the safety of children within the Archdiocese and to mark the day when special vigilance is no longer necessary, there must be a continued push for openness by the Archdiocese when it comes to issues related to the protection of children; implementation of rigorous and effective policies and procedures for protecting children; ongoing examination of key indicators that the Archdiocese is doing all it can to keep children safe; compliance and enforcement of the new legal obligations on clergy and other church workers to be mandated reporters of child abuse; and active involvement among the laity in the implementation of all policies and procedures designed to protect children.

This sad chapter reminds us of how precious our children are and of the responsibility we share as a society for their well-being. All that we value and prize depends on preserving the promise of their future.

I respectfully submit the accompanying Report.

Sincerely,

A handwritten signature in black ink, appearing to read "T. F. Reilly", followed by a long, sweeping diagonal stroke.

Thomas F. Reilly
Attorney General
Commonwealth of Massachusetts

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BACKGROUND

A. Organizational and Management Structure of The Archdiocese of Boston

The Roman Catholic Archdiocese of Boston has been a duly registered corporation, formed under Chapter 180 of the Massachusetts General Laws for religious purposes, since 1897. Responsibility for managing the Archdiocese is vested in the Archbishop of Boston who is essentially the Chairman of the Board and Chief Executive Officer. During Cardinal Bernard Law's almost nineteen-year tenure as Archbishop, he was the sole officer of the corporation.

The Archdiocese provides a wide range of services to more than two million Catholics in 137 cities and towns. Directly or through affiliated organizations, in 2001 the Archdiocese operated or managed 362 parishes, 901 priests, 218 permanent deacons, six seminaries, seven colleges and universities, more than 120 parochial elementary and secondary schools, eleven hospitals and medical centers, two newspapers, one television station, and one radio station.¹

While the hierarchical management structure of the Archdiocese has changed over the years, it generally has maintained a pyramid-like management structure with the majority of decision-making authority vested in relatively few senior managers at the top of the pyramid. The management of the Archdiocese traditionally has been divided into two management trees – one responsible for managing pastoral/religious matters and the other for administrative functions, although there tends to be substantial overlap between the two.

¹ Statistics from the 2002 *Archdiocese of Boston Catholic Directory*

Both Cardinal Humberto Medeiros and Cardinal Law appointed an Auxiliary Bishop to serve as second-in-command through whom most high-level management decisions and matters flowed. This second-in-command position has carried various titles over the years, including Vicar General and Moderator of the Curia, and Vicar for Administration.² For the most part, senior Archdiocese managers, including those having pastoral responsibilities, and those having administrative functions (such as personnel and health care matters, social services, and community relations), reported to the Vicar for Administration, who in turn reported to the Archbishop.

Management Structure for Pastoral/Religious Matters

Religious and pastoral services to the Archdiocese's more than two million Catholics largely are provided at the parish level. In 1998, there were 388 parishes in the Archdiocese. By 2001, that number had dropped to 362. For management purposes, during Cardinal Law's administration the parishes were divided into five regions: North Region, Merrimack Region, Central Region, South Region, and West Region, with each region supervised by an Auxiliary Bishop (commonly referred to as a Regional Bishop). Over the years, the Regional Bishops either reported directly to the Archbishop or reported indirectly to the Archbishop through the Vicar for Administration.

Within each region of the Archdiocese, the parishes were further grouped by proximate cities or towns into four or five sub-groups called Vicariates, with each Vicariate being supervised by a priest who reported to the Regional Bishop.

² In this report, the second-in-command to the Archbishop is referred to as the Vicar for Administration.

Management Structure for Administrative Matters

For many years, the administrative affairs of the Archdiocese, including matters pertaining to planning and development, fiscal affairs, operations, health care, personnel, education, social services, public and community relations, and property maintenance, have been managed under the supervision of the Vicar for Administration from offices at the Chancery in Brighton, Massachusetts. Early in his tenure as Archbishop of Boston, Cardinal Law created an Administrative Cabinet comprised of a number of Secretaries, with each Secretary having defined administrative responsibilities. These Secretaries reported directly to the Vicar for Administration who, in turn, reported to the Archbishop.

Prior to the formation of the Administrative Cabinet, administrative responsibilities were assigned to priests or lay persons at the Chancery who directly reported to the Vicar for Administration. Under Cardinal Medeiros, for example, a Director of Personnel handled clergy personnel matters. Under Cardinal Law, the Secretary for Ministerial Personnel handled personnel matters.

Bishops Who Served Cardinal Law as Vicar for Administration

Bishop Thomas V. Daily	1984
Bishop Robert Banks	1990-1993
Bishop Alfred Hughes	1990-1993
Bishop William Murphy	1994-2001
Bishop Walter Edyvean	2001-2003

Priests Who Served Cardinal Law as Secretary for Ministerial Personnel

Bishop John McCormack	1990-1993
Reverend Paul E. Micelli	1994-2001
Reverend Charles Higgins	2001-2002
Reverend Robert L. Connors	2003

B. Historical Handling of Allegations of Clergy Sexual Abuse of Children

Prior to 1993, the Archdiocese did not have written policies on handling complaints of clergy sexual abuse of children. Nonetheless, the practice within the Archdiocese was that complaints of clergy sexual abuse of children were communicated through informal channels to a very small number of senior Archdiocese managers at the Chancery and ultimately to the Cardinal. Those complaints, typically made to parish priests or other Archdiocese workers at the parish level, sometimes were communicated to these Chancery managers through Regional Bishops, and other times were communicated directly from the parish to the senior managers at the Chancery.³ These complaints were often communicated orally, but sometimes in writing, and often using vague language that omitted pertinent details.

Prior to 1993, allegations of clergy sexual abuse of children most often were handled by the Vicar for Administration or the senior Archdiocese managers responsible for personnel matters: the Clergy Personnel Director and one or more Associate Directors during Cardinal Medeiros' administration, and the Secretary for Ministerial Personnel during Cardinal Law's administration. In most instances, whoever handled child sexual abuse allegations – the Vicar for Administration or the senior Archdiocese manager responsible for personnel matters – kept the Cardinal informed about the allegations and the response to the allegations.

³ While the investigative team found many examples of complaints communicated from the parish level to senior management prior to 1993, it is not possible to determine the frequency with which parish-level priests failed to communicate complaints to senior management.

1993 Sexual Misconduct Policy

It was not until 1992, following the well-publicized arrests of the Reverends James Porter and John Hanlon, that the Archdiocese began to develop a written policy on handling clergy sexual abuse allegations. In 1993, Cardinal Law issued the *Archdiocesan Policy for Handling Allegations of Sexual Misconduct with Minors by Clergy of the Archdiocese*, the first written policy of its kind in the Archdiocese of Boston. The 1993 policy established a new position in the Archdiocese, the Delegate of the Archbishop, who was responsible for coordinating sexual misconduct matters, and outlined a method to handle clergy sexual misconduct allegations. The 1993 policy also created a Review Board, comprised of members of the clergy, the medical and psychological fields, the judiciary and the public, which was accountable for making recommendations to the Archbishop on the disposition of cases of clergy sexual abuse of children including actions, if any, to be taken against abusive priests.

The 1993 policy mandated a “pastoral” response to sexual misconduct allegations that included assessing the veracity of the complaint, providing spiritual and psychological counseling to the victim and his/her family, respecting the “civil” and “canonical rights of the accused priest while seeking to assist him,” providing outreach to parishes or communities affected by clergy sexual abuse of children, and mandating that restrictions be placed on abusive priests “to prevent the repetition of sexual misconduct by clerics.”

The 1993 policy provided, in part, that:

- Allegations of clergy sexual abuse of children were to be investigated promptly by the Delegate;

- Upon receipt of a complaint of sexual abuse, the Delegate or his designee was responsible for separately meeting with the victim and the accused priest;
- Appropriate support, including assistance for counseling and spiritual help, was to be provided to the victim or other persons affected by the sexual misconduct;
- If civil or criminal proceedings were involved, the Vicar for Administration was to meet with the accused priest to discuss types of assistance needed to sustain him;
- During the course of the Delegate's investigation and until the Archbishop made a final decision on the disposition of the case, temporary restrictions, such as restrictions on ministry duties or housing, were to be placed on the accused priest if either the priest admitted to the conduct or the Delegate determined that there was a reasonable probability that the allegation was true;
- The Archbishop was to appoint priests to serve as advisors and monitors of priests accused of sexual misconduct;
- Upon completion of the investigation, the Delegate was to draft a summary of the case and his recommendations for presentation to the Review Board. The Review Board, in turn, was to recommend a course of action to the Archbishop;
- If the Archbishop ultimately decided that the priest would be permitted to return to ministry, it was to be done only after a "comprehensive after-care plan" was established, including informing appropriate persons with whom the cleric would live and work about the past history and the after-care plan;
- If the Archbishop decided that the accused priest was not going to return to ministry in the near future, his after-care plan was to include assignment to a supervised residence and development of a future work plan that precluded contact with children; and
- If the Archbishop decided that an accused priest was not going to return to ministry, appropriate arrangements were to be made to protect the community and make provisions for the future of the priest.

Following the issuance of the 1993 policy, neither the Cardinal nor his senior managers participated in comprehensive periodic evaluations of the policy, and there were no amendments made to the policy between 1993 and 2002.

Office of the Delegate

The 1993 Sexual Misconduct Policy created the position of Delegate of the Archbishop with the primary responsibility for handling matters pertaining to clergy sexual abuse of children. On the Archdiocese's organizational chart, the Delegate's Office was within the Secretariat for Ministerial Personnel. However, the Delegate operated with a great deal of autonomy and on most child abuse matters reported directly to the Archbishop or indirectly to the Archbishop through the Vicar for Administration. The Delegate and his staff were responsible for handling victims' issues including receiving and evaluating abuse complaints, providing financial support to victims, providing referrals to social services and medical providers, and helping settle legal claims. The Delegate also was responsible for a wide range of issues pertaining to alleged abusers, including investigating allegations, providing pastoral, financial and medical support to accused priests, arranging for accused priests to receive psychiatric evaluations and treatment, making recommendations to the Review Board, monitoring ministry and housing restrictions imposed on accused abusers, and implementing the Cardinal's decisions concerning the disposition of abuse cases.

Priests who Served Cardinal Law as Delegate

Bishop John McCormack	1993-1994
Reverend Brian Flatley	1996-1999
Reverend William Murphy	1996-1999
Reverend Charles Higgins	1999-2002
Reverend David White	2002
Reverend Sean Connor	2002-2003

The Review Board

The Review Board was charged with receiving reports and recommendations from the Delegate on every child sexual abuse case and making recommendations to the Archbishop on the disposition of priests accused of sexually abusing children. To formulate these recommendations, the Review Board relied on the Delegate's investigation and report. In most instances, the Delegate brought new allegations to the Review Board's attention. In some instances, however, when the Delegate learned of new allegations of sexual misconduct after the Review Board already had reviewed previous allegations and forwarded a recommendation to the Cardinal, the Delegate then failed to advise the Review Board of those new allegations. In these cases, the Review

Board did not have an opportunity to reconsider its previous recommendations or make new recommendations that reflected the full extent of abuse known to the Delegate.

Referral of Accused Priests to Psychiatric Institutions for Evaluation

During Cardinal Law's tenure as Archbishop, an allegation of clergy sexual abuse of a child usually resulted in a relatively quick decision to have the accused priest undergo a psychiatric evaluation. These evaluations typically lasted a week or less, and were most often done on an in-patient basis at one of four institutions (three of them affiliated with the Catholic Church). The evaluations often were followed by extended periods of in-patient psychiatric treatment, often lasting six months.

The Archdiocese had several reasons for compelling psychiatric evaluation and treatment for priests accused of sexually abusing children: (1) concern for accused priests' mental and physical well-being; (2) determination of the veracity of the complaint where the priest denied the allegation; and (3) assessment of the nature and degree of the individual priest's problem and the prognosis for re-offending. These evaluations also were used to support the Archdiocese's strong desire to (1) return priests to ministerial duties whenever possible; and (2) limit the Archdiocese's exposure to legal liability when abusive priests were returned to ministerial duties after undergoing psychiatric treatment and receiving a clean bill of health from a psychiatric institution.

At the conclusion of the evaluation process, a senior Archdiocese manager (Vicar for Administration, Secretary for Ministerial Personnel, or Delegate) would confer with the institution's staff and receive a report on, and recommendation for future treatment of, the accused priest. Archdiocese staff would receive periodic status reports during the

course of the in-patient treatment program and would receive a final report on the priest, including a recommendation concerning future ministerial responsibilities. In many instances, an outpatient monitoring or treatment program followed the in-patient treatment program.

The three psychiatric institutions affiliated with the Catholic Church most often used for psychiatric evaluation and treatment of priests accused of sexually abusing children were St. Luke Institute in Maryland, Southdown Institute in Ontario, Canada, and the House of Affirmation in Whitinsville, Massachusetts. A fourth institution used for evaluation and treatment services, but not affiliated with the Church, was The Institute of Living in Connecticut.

C. The Magnitude of Clergy Sexual Abuse of Children in the Archdiocese

For many reasons, including under-reporting by victims of clergy sexual abuse, the understandable desire of many victims for privacy and confidentiality, and the failure of the Archdiocese to keep precise and organized records of abuse complaints over the past fifty or more years, the full magnitude of the Archdiocese's history of clergy sexual abuse of children is difficult, if not impossible, to determine. Nevertheless, whether the magnitude is calculated in terms of numbers of known victims, or numbers of known offenders, the magnitude of the Archdiocese's history of clergy sexual abuse of children is staggering.

Records produced by the Archdiocese reveal that at least 789 victims (or third parties acting on the behalf of victims) have complained directly to the Archdiocese

(including complaints filed through the Archdiocese’s attorneys).⁴ When information from other sources is considered – such as groups representing survivors of clergy abuse, plaintiffs’ attorneys, media reports, and records from civil suits – the number of alleged victims who have disclosed their abuse likely exceeds one thousand. And the number increases even further when considering that an unknown number of victims likely have not, and may never disclose their abuse to others.

Analysis of documents obtained from the Archdiocese discloses that the sexual abuse of the 789 victims who have complained to the Archdiocese took place in the following periods of time⁵:

1940-1959	24 victims
1960-1969	163 victims
1970-1979	282 victims
1980-1984	107 victims
1984-1992	86 victims
1993-2000	33 victims
No Date	94 victims

The magnitude of the Archdiocese’s history of clergy sexual abuse is equally shocking if evaluated in terms of the number of priests and other Archdiocese workers

⁴ These victim statistics are based on documents obtained from the Archdiocese. Careful attention was given to ensure that victims were not double counted.

⁵ If a victim was abused over a span of years, the abuse was attributed only to the period of time in which the majority of the abuse took place.

alleged to have sexually abused children since 1940.⁶ Analysis of relevant documents, including those produced by the Archdiocese, documents filed in civil suits on behalf of alleged victims of clergy sexual abuse, and media reports, reveal that allegations of sexual abuse of children have been made against at least 237 priests and thirteen other Archdiocese workers. Of these 250 priests and other Archdiocese workers, 202 of them allegedly abused children between 1940 and 1984, with the other forty-eight allegedly abusing children during Cardinal Law's tenure as Archbishop of Boston.⁷

Approximately 110 of the 237 priests alleged to have sexually abused children since 1946 graduated from the Archdiocese's principal seminary, St. John's Seminary, located on the grounds of the Chancery in Brighton; two others graduated from another Archdiocesan seminary, Blessed John XXIII National Seminary in Weston. *See* Appendix 2. Despite evidence that a large number of abusive priests graduated from St. John's Seminary between 1949 and 1990, there was no evidence that the Archdiocese at any time undertook a comprehensive analysis of possible systemic causes of the abuse and whether there was a causal relationship between the prevalence of abuse, the type of candidates attracted to the priesthood, and the Archdiocese's policies and practices for recruiting and screening applicants to the seminary.⁸ While applicants to the

⁶ The number of priests alleged to have sexually abused children since 1940 was determined by reviewing documents produced by the Archdiocese, documents filed in civil suits on behalf of alleged victims of clergy sexual abuse, media reports and documents created by organizations representing victims of clergy sexual abuse.

⁷ For statistical purposes, in those instances where a single priest abused children during the tenure of both Cardinal Medeiros and Cardinal Law, he was counted only as abusing during Cardinal Law's tenure – there was no double counting. *See* Appendix 1 for further explanation.

⁸ At least one senior Archdiocese manager advocated for a more proactive approach to selecting seminarians and for more comprehensive psychological testing of seminary applicants. In 1979, Bishop D'Arcy, who at the time was Vicar for Spiritual Development at St. John's Seminary, drafted a lengthy letter to seminary officials and fellow bishops, which was published on behalf of a committee of New England Bishops. In this letter, Bishop D'Arcy advocated for clearer and more stringent criteria for selecting seminarians, greater selectivity in the admissions process, a greater willingness to dismiss seminarians that were not appropriate for the priesthood, and better psychological testing of applicants.

Archdiocese's seminaries did not undergo psychiatric screening or testing prior to the late 1960's, the two principal seminaries in the Archdiocese did eventually implement policies concerning screening and testing of applicants.

Bishop D'Arcy urged the church to focus on applicants' capacity for "celibate love and selfless ministry," and their ability to integrate their sexuality into the priestly vocation and to "resist the need for sexual gratification." It does not appear that the Archdiocese adopted Bishop D'Arcy's recommendations in any meaningful way.

FINDINGS & CONCLUSIONS

Finding No. 1: The Investigation Did Not Produce Evidence of Recent or Ongoing Sexual Abuse of Children in the Archdiocese of Boston, But It Is Too Soon to Conclude that the Archdiocese Has Undertaken the Changes Necessary to Ensure that Abuse Has Stopped and Will Not Occur in the Future

The Attorney General's investigation did not produce evidence of recent or ongoing sexual abuse of children by priests or other Archdiocese workers.⁹

Significantly, the investigation also did not produce evidence that would readily explain the lack of recent complaints. Given the magnitude of mistreatment and the fact that the Archdiocese's response over the past eighteen months remains inadequate, it is far too soon to conclude that the abuse has, in fact, stopped or could not reoccur in the future.¹⁰

⁹ The Office of the Attorney General is not free to disclose in this report all that was learned during the course of the extensive grand jury investigation. This state's Rules of Criminal Procedure provide that "[a] person performing an official function in relation to the grand jury may not disclose matters occurring before the grand jury except in the performance of his official duties or when specifically directed to do so by the court." Mass. R. Crim. P. 5(d). This secrecy requirement is deeply rooted in the common law of the Commonwealth. In Massachusetts, grand jury secrecy rules apply with less force to documentary evidence, as opposed to testimonial evidence, particularly where the documentary evidence was not created for the purpose of the grand jury investigation and has been disclosed in other settings. Likewise, in some instances grand jury secrecy rules do not prohibit disclosure of a prosecutor's opinions that may be based on evidence heard by a grand jury. Additionally, in conformity with grand jury secrecy, grand jury information obtained by criminal investigators was not shared with civil investigators within the Attorney General's Office.

¹⁰ Children who may have been sexually abused in recent years may be too young to report the abuse to parents or other adults. It is well recognized that children who are the victims of sexual abuse often cannot recognize or effectively assert their victimization until they have reached adulthood and may be fearful of reprisals or that they will not be believed. *Stogner v. Superior Court*, 114 Ca. Rptr. 2d 37, 43-44 (Cal. Ct. App. 2001), *cert. granted* 123 S. Ct. 658 (2002). Indeed, the fact that child victims often do not report their abuse for many years is reflected in the extended statute of limitations that applies to sexual assaults against children, which provides that the period of limitation does not begin to run until the earlier to occur of the child reaching the age of sixteen or the crime being reported to law enforcement. M.G.L. c. 277, s. 63. Moreover, studies report that only a small percentage of people who are sexually abused as children ever disclose the abuse, Rochelle F. Hanson et al., *Factors Related to the Reporting of Childhood Rape*, 23 Child Abuse & Neglect 559, 564 (1999); Paul E. Mullen et al., *Childhood Sexual Abuse and Mental Health in Adult Life*, 163 British J. Psychiatry, 721, 729 (1993), and only a fraction of abuse allegations that are disclosed to adults ever are reported to law enforcement, Bagley & Ramsay, *Sexual Abuse in Childhood: Psychosocial Outcomes and Implications for Social Work Practice*, 4 Journal Soc. Work & Human Sexuality 33 (1986). Therefore, if clergy sexual abuse of children has continued during recent years, it may be a number of years before the child victims disclose the abuse.

For more than fifty years there has been an institutional acceptance within the Archdiocese of clergy sexual abuse of children. Clergy sexual abuse of children has also been shown to be a nationwide problem with some reports indicating that more than 300 priests were removed from ministry in 2002 alone as a result of allegations of sexual abuse of children,¹¹ and as many as 1,200 Roman Catholic priests in the United States have been accused of sexually abusing more than 4,000 children.¹² The staggering magnitude of the problem would have alerted any reasonable, responsible manager that immediate and decisive measures must be taken.

The Archdiocese Has Not Yet Demonstrated a Commitment to Reform Commensurate With the Scope of the Tragedy

The Archdiocese has yet to demonstrate an appropriate sense of urgency for attacking the problem of child sexual abuse or for changing its culture to remove the risk to children. The Archdiocese's response over the past eighteen months to the public disclosure of the long history of clergy sexual abuse of children demonstrates an insufficient commitment to (1) determining the systemic causes of clergy sexual abuse; (2) removing priests and other Archdiocese workers who committed such serious crimes against children and holding them accountable for their actions; (3) addressing its failure to prevent sexual abuse of children; (4) full information sharing and cooperation with state law enforcement authorities concerning suspicions or allegations of clergy sexual abuse of children; or (5) taking adequate steps to ensure that children are not sexually abused in the future.

¹¹ Cathy Lynn Grossman & Anthony DeBarros, *Facts of Abuse Crisis at Odds with Perception*, USA Today (November 11, 2002).

¹² Laurie Goodstein & Anthony Zirilli, *Trail of Pain in Church Crisis Leads to Nearly Every Diocese*, New York Times (January 12, 2003).

On May 30, 2003, more than sixteen months after the first disclosures of the full history of the sexual abuse of children in the Archdiocese, the Archdiocese finally promulgated and adopted its new sexual abuse policy, *Policies and Procedures for the Protection of Children*. This policy followed extensive communications with the Office of the Attorney General as well as the production in October 2002 of recommended policies and procedures by The Cardinal's Commission for the Protection of Children, a commission of lay experts appointed by Cardinal Law. According to the Archdiocese, the policies adopted in May were "consistent with church law and codify the substantial implementation of the Cardinal's Commission," as the Attorney General had recommended. The new document is a marked improvement over the 1993 policy, and recognizes important child protection measures advocated by the Attorney General and the Commission, including age-appropriate sex abuse prevention programs in all Catholic schools and religious education classes; background checks of all current and prospective clergy, archdiocesan personnel and volunteers; screening seminary students; mandatory training on the obligation to report suspected child abuse; establishment of a code of pastoral conduct for clergy, archdiocesan personnel and volunteers; and cooperation with law enforcement. The policy also establishes the role of the Review Board and various other boards and offices, including the Office for Pastoral Support and Outreach created to address the needs of victims.

The May policy is a disappointment, because – faced with both the history of pervasive and prolonged abuse and the willingness of many qualified persons and organizations to help – the Archdiocese needlessly delayed in adopting new policies and procedures and the policy adopted remains deficient in the following critical ways:

Investigation and Discipline Process. The investigation and discipline process does not envision consistent, uniform or mandatory practices, but depends at all stages on the exercise of the Archbishop's discretion as to whether or not to proceed. The process protects priests at the expense of victims and, in the final analysis, is incapable of leading to timely and appropriate responses to sex abuse allegations. It is essential that the Archdiocese provide a rigorous investigation and discipline process that does not favor alleged abusive priests over their victims.

Independent Review Boards. None of the various boards or offices appearing in the *Policies and Procedures* is "independent" or "independently incorporated," raising doubts about the Archdiocese's commitment to objective oversight and further hampering attempts to rebuild trust in the institution. Under the *Policies and Procedures*, the Archbishop has complete control over selection of Review Board members who must be "in full communion" with the church. As a result, it is less likely that the Review Board can operate independently and effectively (a problem under the 1993 policy) or make decisions, judgments or recommendations adverse to the Archdiocese as an institution, but still in the public interest.

Independent Victim's Assistance Board. The experts on the Commission and the Attorney General, recognizing the conflict of interest that arose from the Archdiocese's control over the provision of assistance to victims who came forward with allegations of sexual abuse, advocated for an independent board to oversee this function. It is essential that services to victims be arranged or provided by persons financed by, but unaffiliated with, the Archdiocese.

Supervision of Abusive Priests. The Archdiocese still has not committed to supervise, monitor and assess the dangerousness of priests who have been or will be removed from ministry because they sexually abused children, even though the Archdiocese has helped them find housing and, in some cases, employment. These priests have either admitted to sexual abuse, been diagnosed with pedophilia or another sexual disorder, or the Archdiocese has concluded that the priest committed sexual abuse. Since the Archdiocese refused to hand those priests over to law enforcement for criminal prosecution, many are potentially dangerous to children in the communities where they live and work. The Attorney General has consistently urged the Archdiocese to monitor those priests closely and deems this essential to protect children in the future from sexual abuse.

Accountability. The Attorney General has continued to maintain that the Archdiocese hold accountable and discipline bishops, other clergy, employees and volunteers for committing sexual abuse or permitting it to occur through inaction. The Archdiocese's *Policies and Procedures* notably exempts bishops from their coverage and does not even require all clergy, employees and volunteers to comply with the *Policies and Procedures* or set forth penalties for non-compliance.¹³ A person who fails to comply with the mandatory requirement to report sexual abuse or a priest who violates the code of pastoral conduct should be subject to discipline. The Archdiocese should also require permanent retention of all records of child sexual abuse.

¹³ The Archdiocese of Washington policy, on the other hand, states that “[a]ll clergy, employees and volunteers of the Archdiocese of Washington are expected to adhere to this policy. The Archdiocesan Personnel Policy shall clearly state that corrective actions will be taken and consequences will result from failure to adhere to the Child Protection Policy.”

Anonymous Complaints. The Archdiocese does not affirmatively commit to investigating all anonymous complaints to the fullest extent possible.¹⁴ The *Policies and Procedures* repeatedly states that the accused has a right to know his accuser and leaves it to the discretion of the Archbishop “to determine how to handle the allegation.”

Implementation. The Archdiocese’s structure for implementing the various parts of its *Policies and Procedures* is highly decentralized. It is imperative that the Archdiocese appoint a leader for the Office for Child Advocacy, Implementation and Oversight who has the authority and qualifications to achieve coordination among the various boards, offices, parochial elementary and secondary schools and local parishes, and has the proper staff and appropriate financial resources for the Office’s work. The Implementation and Oversight Advisory Committee should consist of persons with relevant expertise who receive appropriate support from the Archdiocese and meaningful input from the other boards and offices. Finally, it must be clear that it is the Archdiocese and its management team who bear ultimate responsibility for assuring compliance with the *Policies and Procedures*.¹⁵

¹⁴ A review of the Archdiocese’s clergy files, especially for some of the worst offenders, reveals anonymous complaints that, if the Archdiocese had not ignored them, could have prevented the abuse of more children.

¹⁵ The Archdiocese of Washington policy, for example, specifically states, in “Responsibility for the Implementation of the Policy,” that “[t]he Archdiocese will be responsible for the effective and timely implementation of this policy.”

Finding No. 2: The Investigation Did Not Produce Evidence Sufficient to Charge the Archdiocese or its Senior Managers With Crimes Under Applicable State Law

Another objective of the Attorney General's investigation was to determine whether the Archdiocese or its senior managers committed state criminal acts either in their response to allegations that priests and other Archdiocese workers sexually abused children or in their failure to prevent such abuse. The investigative team identified the following state statutory and common law crimes as those most likely applicable to the conduct of the Archdiocese and its senior managers:¹⁶

- Accessory After the Fact to a Felony – requires proof beyond a reasonable doubt that the defendant rendered aid to a felon with the specific intent to help him avoid or escape detention, arrest, trial or punishment;
- Accessory Before the Fact to a Felony – requires proof beyond a reasonable doubt that the defendant shared the primary felon's state of mind and aided in the commission of the felony by counseling, hiring or encouraging the felony to be committed;
- Conspiracy – requires proof beyond a reasonable doubt that the defendant entered into an agreement with one or more people where the objective was criminal or unlawful, or the means of achieving the objective was criminal or unlawful; and
- Obstruction of Justice (Common Law) – requires proof beyond a reasonable doubt that the defendant knowingly interfered with the testimony or role of a witness in a judicial proceeding.

¹⁶ The investigative team was mindful at all times of the applicable statutes of limitation. Generally, criminal charges must be brought within six years of the commission of a crime. However, in 1985 the Legislature extended the statute of limitations for some crimes against children, including rape of a child, to ten years. The statute of limitations was amended again in 1988 to provide that for some crimes against children, it does not begin to run until the child victim turns sixteen or the crime is reported to law enforcement. In 1996 the Legislature again extended the limitations period for various crimes against children, including rape of a child, from ten to fifteen years.

Additionally, because in certain circumstances state criminal law permits the prosecution of a corporation such as the Archdiocese for crimes committed by its agents, the investigative team identified the possibility of criminally prosecuting the Archdiocese for the sexual assaults committed against children by Archdiocese priests and church workers, or for being an accessory before or after the fact of such assaults.

The evidence gathered during the course of the Attorney General's sixteen-month investigation does not provide a basis for bringing criminal charges against the Archdiocese or its senior managers. The investigation did not produce evidence that senior Archdiocese managers encouraged priests to abuse children, intended that priests would abuse children, intended to obstruct justice by helping abusive priests avoid arrest or punishment, interfered with the testimony or role of a witness in a judicial proceeding, or entered into unlawful agreements. Nor is there evidence that the Archdiocese benefited by priests sexually abusing children.

New Criminal Laws Provide Important Tools to Prosecute Future Misconduct

Although evidence gathered during the investigation establishes that senior Archdiocese managers did not report suspected child sexual abuse to public authorities, the state's child abuse reporting law is not applicable because it was not expanded to include priests until 2002.

The abuse of hundreds of children might have been prevented if the Archdiocese had adopted and followed a policy over the years of promptly disclosing allegations of child sexual abuse to public authorities. Teachers, nurses, doctors, police officers and many other categories of persons who have frequent contact with children are legally

mandated to report to the Department of Social Services if they have reasonable cause to believe that a child under the age of eighteen years is suffering physical or emotional injury resulting from abuse. However, the mandatory reporting law, Chapter 119, Section 51A of the General Laws of Massachusetts, first enacted in 1973, did not include clergy and other church workers within the group of mandated reporters until May 2002.

In January and February 2002, as the magnitude of the clergy sexual abuse in the Archdiocese was becoming known, a working group comprised of Assistant Attorneys General and Assistant District Attorneys worked closely with the Legislature to amend the mandatory reporting law to include clergy and other church workers. Effective May 3, 2002, Chapter 119, Section 51A, mandates clergy and other church workers to make a report to the Department of Social Services whenever they have “reasonable cause to believe that a child under the age of eighteen years is suffering physical or emotional injury resulting from abuse inflicted upon him which causes harm or substantial risk of harm to the child’s health or welfare, including sexual abuse . . . ”¹⁷

Amending the mandatory reporting law significantly reduces the chance that widespread sexual abuse by clergy ever will go unreported again and recognizes that allegations of sexual abuse of children by those entrusted with the care of children are not appropriately dealt with in a non-law enforcement, informal manner.¹⁸

¹⁷ More particularly, Section 51A was expanded to include any “priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, or accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis.”

¹⁸ The Attorney General has concluded that the current penalty of not more than \$1,000 for violating the mandatory reporting law is too small to effectively deter non-compliance. As a result the Attorney General and others have introduced legislation to increase the penalty to \$25,000 or imprisonment for not more than 2 ½ years, or both.

In the fall of 2002, the Legislature took another important step to protect children by enacting Chapter 265, S13L of the General Laws. This statute, which became effective in December 2002, created for the first time in Massachusetts the crime of recklessly endangering children. This statute importantly punishes “whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to alleviate such risk where there is a duty to act.”

None of these statutes may be applied retroactively to address the past conduct of Archdiocese officials. If these laws had been in place earlier, however, the Attorney General and District Attorneys would have had much more effective tools at their disposal as they sought to hold accountable those responsible for placing children at risk of sexual abuse.

Finding No. 3: The Investigation Did Produce Evidence that Widespread Sexual Abuse of Children Was Due to an Institutional Acceptance of Abuse and a Massive and Pervasive Failure Of Leadership

1. Top Archdiocese Officials Knew the Extent of the Clergy Sexual Abuse Problem For Many Years Before it Became Known to the Public

There is overwhelming evidence that for many years Cardinal Law and his senior managers had direct, actual knowledge that substantial numbers of children in the Archdiocese had been sexually abused by substantial numbers of its priests. Members of the Cardinal's senior management team received complaints of abuse; determined the Archdiocese's response to the complaints; reported to the Cardinal and often sought his approval for their actions; and conferred with the Cardinal and sought his approval of their recommendations. Any claim by the Cardinal or the Archdiocese's senior managers that they did not know about the abuse suffered by, or the continuing threat to, children in the Archdiocese is simply not credible.

Although the public did not learn of the magnitude of the clergy sex abuse problem within the Archdiocese until 2002, Cardinal Law was generally aware of instances where priests had sexually abused children even before arriving in Boston, and he and his management team were aware of an ongoing problem in the Archdiocese of clergy sexual abuse of children almost from the time of his installation as Archbishop in 1984. Moreover, the Archdiocese dedicated substantial resources to dealing with abusive priests and their victims throughout Cardinal Law's tenure as Archbishop.

The Archdiocese's own record-keeping also shows the extent of information about the Archdiocese's history of clergy sexual abuse that was available to senior

Archdiocese managers had they chosen to examine it. Although the files produced by the Archdiocese often were disorganized and had not been centrally maintained, it was evident that Archdiocese personnel, including senior managers within the Chancery, regularly created contemporaneous records documenting allegations by victims of clergy sexual abuse and the response to the allegations. These documents included handwritten and typed notes and memoranda of interviews of accused priests, victims and others with information relating to allegations; reports prepared by psychiatrists and notes of conversations with psychiatrists detailing their conclusions about accused priests; correspondence to and from victims and their families; notes detailing conversations with attorneys who represented accused priests and victims; and memoranda detailing the rationale for actions taken by senior management with respect to particular priests.

The Archdiocese's files of more than 102 priests alleged to have abused children since 1940, including the files of all priests alleged to have abused children since 1984, reveal that in the 1980's, senior Archdiocese managers already were aware of multiple allegations of clergy sexual abuse of children. The following examples illustrate what senior managers knew:

- Senior Archdiocese managers were advised of allegations of child sexual abuse against Father Joseph Birmingham in 1964, 1970 and again in 1987;
- Archdiocese files reveal that senior managers were aware of abuse allegations involving Father Robert Burns as early as 1982;
- In 1984, Archdiocese senior managers received a complaint that Father Robert Morrisette sexually abused a child;
- In 1984, Father Eugene O'Sullivan was convicted of rape of a child;
- In 1985, law enforcement officials notified senior Archdiocese managers of child sexual abuse allegations against Father Paul Tivnan;

- Allegations of sexual abuse by Father Richard Coughlin were presented to senior Archdiocese managers in 1985;
- Allegations of sexual abuse of children by Father Robert Gale in the 1970's and early-1980's were provided to senior Archdiocese managers in 1979, 1981, 1983, 1987, 1992, and 1994;
- As early as 1979, and at different times in the 1980's and 1990's, senior Archdiocese managers received allegations of sexual abuse of children by Father John Geoghan;
- In 1988, senior Archdiocese managers were made aware that Father Daniel Graham had engaged in sexual abuse of a child;
- In 1985, senior Archdiocese managers were made aware of child sexual abuse allegations against Father Paul Desilets.

Cardinal Law had first-hand knowledge of the problem of clergy sexual abuse of children for many years. In November 1984, Cardinal Law visited Saint Luke Institute – the in-patient facility in Maryland affiliated with the Church that provided psychiatric evaluations and treatment for, among other behavioral problems, pedophilia.¹⁹ During his visit, Cardinal Law met with several Archdiocese priests who were patients at the

¹⁹ “Pedophilia” and “ephebophilia” fit under a larger category of disorders known as Paraphilias, the essential features of which are “recurrent, intense sexually arousing fantasies, sexual urges, or behaviors generally involving (i) nonhuman objects, (ii) the suffering or humiliation of oneself or one's partner, or (iii) children or other nonconsenting persons, that occur over a period of at least six months....” *Attorney Grievance Com’n of Maryland v. Thompson*, 786 A.2d 763, 781 (Md. 2001). “Pedophilia” describes a sexual orientation towards pre-pubescent children. “Ephebophilia” describes a sexual attraction not to prepubescent children but to children or adolescents around the time of puberty. Berlin, Frederick S., *Interview with Frederick S. Berlin, M.D., Ph.D., United States Conference of Catholic Bishops*, www.usccb.org/comm/kit6.htm, June 3, 2003. The diagnostic criteria for pedophilia are: (i) “over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 or younger,” and (ii) “the person has acted on these sexual urges, or the sexual urges or fantasies cause marked distress or interpersonal difficulty,” and (iii) “the person is at least age 16 years and at least five years older than the child or children . . .” American Psychiatric Association, *Diagnostic & Statistical Manual of Mental Disorders* 572 (4th ed., Text Revision 2000). See also *Commonwealth v. Rodriguez*, 2001 WL 303058 (Mass. Super. 2001).

facility, including at least one who was being treated for pedophilia, and met with the Institution's staff to discuss the treatment program of that priest.

A letter to Cardinal Law from Dr. Thomas Kane, Director of the House of Affirmation, a counseling and psychiatric treatment center for priests in Massachusetts, indicates that in January 1986, Cardinal Law and Dr. Kane discussed "the question of pedophilia among priests," including the recidivism risk presented by pedophiles, and whether to return pedophile priests to ministry duties. Dr. Kane's letter to Cardinal Law begins, "At the close of our conversation on Wednesday, January 29th, the question of pedophilia among priests was raised." Dr. Kane proceeds in his letter to make several "observations" on the subject of clergy pedophilia, including:

- "The House of Affirmation has been treating pedophiles for over fifteen years with some degree of success. However, generally speaking, we have tried to help redirect the lives of these people to embrace a life situation outside of active ministry. Over the years we have received a great deal of misunderstanding and/or hostility from some members of the hierarchy for taking this position."
- "In general practice, the clinical literature seems to support that there has been a great deal of recidivism among treated pedophiles. Often these people are referred to the House of Affirmation after repeated offenses."
- "What probably is needed is a halfway house that would be carefully supervised that would show the Church's compassion and care for these men as we assist and prepare them for other occupations."
- "I believe it is urgent and necessary that the NCCB/USCC be encouraged to make a statement about this matter so as to help the pedophile and the children who are or have been abused, so that we do not lose credibility among the laity who may

exaggerate the seriousness of this problem in regard to the actual percentage of priests who may be pedophiles.”²⁰

Other examples of the evidence establishing the Archdiocese’s knowledge of clergy sexual abuse many years ago include:

- In 1990, Cardinal Law, Bishops Banks and McCormack and other Archdiocese managers held a meeting with the Major Superiors of the Religious Orders of Men at which they discussed requiring religious orders to certify that they were not aware of information about religious order priests being granted privileges within the Archdiocese “that might incur criminal penalties or civil damages.”²¹
- During her two-year tenure from 1992 to 1994 in the Delegate’s Office, Sister Catherine Mulkerrin compiled information on allegations by more than 200 people that they had been abused as children by more than 100 priests in the Archdiocese.
- The annual reports prepared by the Delegate, for all but one fiscal year from July 1994 through June 2000, documented the total number of priests accused of sexually abusing children, the total number of victims of these priests, the cost during the fiscal year of treatment services provided to the victims and the priests, and the amounts paid to victims during the fiscal year to settle legal claims. *See Appendix 3.* According to these reports, by June 2000, eighteen months before the public became fully aware of the scope of child sexual abuse within the Archdiocese, the Archdiocese already had received complaints from 402 victims alleging sexual abuse by 191 priests and had expended more than \$17 million to settle victim claims.

²⁰ NCCB refers to the National Conference of Catholic Bishops. USCC refers to the United States Catholic Conference. In July 2001, the NCCB and the USCC were combined to form the United States Conference of Catholic Bishops (USCCB).

²¹ Priests in the Catholic Church may be categorized as either diocesan or religious. Both types of priests have the same priesthood faculties, acquired through ordination by a bishop. Differences lie in their way of life, type of work, and the Church authority to which they are responsible. *Diocesan priests* commit their lives to serving the people of a diocese, a church administrative region, and generally work in parishes, schools, or other Catholic institutions as assigned by the bishop of their diocese. Diocesan priests take oaths of celibacy and obedience. *Religious priests* belong to a religious order, such as the Jesuits, Dominicans, or Franciscans. Religious priests may receive duty assignments from their superiors in their respective religious orders, or they may receive assignments within a diocese, such as a parish assignment, from the diocesan Bishop.

2. The Archdiocese's Response to Reports of Sexual Abuse of Children, Including Maintaining Secrecy of Reports, Placed Children at Risk

Top Archdiocese officials, in response to reports of sexual abuse of children and aware of the magnitude of the sexual abuse problem, decided that they should conceal – from the parishes, the laity, law enforcement and the public – their knowledge of individual complaints of abuse and the long history of such complaints within the Archdiocese. By practice and policy, information concerning the complaints of abuse was shared with only a small number of senior Archdiocese officials, and only these officials were responsible for fashioning a response to the harm to children in the Archdiocese. As a result, the response by the Archdiocese reflected tragically misguided priorities. Top Archdiocese officials regularly addressed and supported the perceived needs of offending priests more than the needs of children who had been, or were at risk of being, abused.

As the chief executive of the Archdiocese, Cardinal Law was responsible for and approved many of the policies, procedures and practices concerning clergy sexual abuse cases in effect during his administration. Cardinal Law was the Archbishop of Boston from March 1984 until he resigned in December 2002. During his tenure, Cardinal Law delegated day-to-day responsibility for handling allegations of sexual abuse of children to various senior Archdiocese managers. At the beginning of his administration, the Vicar for Administration, the Cardinal's second-in-command, was the person primarily responsible for handling clergy sexual abuse matters. From the mid- to late-1980's and until the adoption of the 1993 policy, the Cardinal's Secretary for Ministerial Personnel

was the person primarily responsible for addressing allegations of abuse. From 1993 to the present, responsibility for allegations of abuse has rested with the Delegate.

Although Cardinal Law delegated responsibility for handling clergy sexual abuse matters, his senior managers kept the Cardinal apprised of such matters either directly or through the Vicar of Administration, who supervised the Secretary of Ministerial Personnel and the Delegate. Moreover, throughout his tenure, Cardinal Law personally participated in decisions concerning the final disposition of clergy sexual abuse cases, including decisions on whether to permit accused priests to return to ministry duties. For the most part, his involvement included the review and approval of recommendations on such matters from his Vicar for Administration or Secretary for Ministerial Personnel, or after adoption of the 1993 policy, from the Review Board.

As Archbishop, and therefore chief executive of the Archdiocese, Cardinal Law bears ultimate responsibility for the tragic treatment of children that occurred during his tenure. His responsibility for this tragedy is not, however, simply that of the person in charge. He had direct knowledge of the scope, duration and severity of the crisis experienced by children in the Archdiocese; he participated directly in crucial decisions concerning the assignment of abusive priests, decisions that typically increased the risk to children; and he knew or should have known that the policies, practices and procedures of the Archdiocese for addressing sexual misconduct were woefully inadequate given the magnitude of the problem.

Cardinal Law by no means bears sole responsibility for the harm done to children in the Archdiocese. With rare exception, none of the Cardinal's senior managers advised him to take any of the steps that might have ended the systemic abuse of children.

Rather, they generally preserved the key elements of the culture within the Archdiocese that sustained this crisis.

Summaries of the roles and conduct of senior Archdiocese officials who served Cardinal Law follow:

i. Bishop Thomas Daily

Bishop Thomas Daily served as Cardinal Medeiros' Vicar for Administration from approximately 1976 until the Cardinal's death in 1983. Bishop Daily remained Vicar for Administration for a short period of time in 1984 after Cardinal Law was installed as Archbishop of Boston. In 1984, Bishop Daily became Bishop of Palm Beach, Florida. In 1990, he was installed as the Bishop of the Diocese of Brooklyn, New York.

During his tenure as second-in-command to the Archbishop, Bishop Daily was involved in handling matters related to sexual misconduct with children. Bishop Daily reported all information about sexual abuse investigations to Cardinal Medeiros, with whom he had a very close working relationship. During the brief period of time that Bishop Daily served in the Law Administration, he had far less frequent meetings with Cardinal Law.

Bishop Daily's handling of allegations of clergy sexual abuse of children was deficient in several significant respects:

- Bishop Daily failed to thoroughly investigate, or cause thorough investigations of, allegations of child sexual abuse, even in instances where there was evidence that the accused priest falsely denied the allegations.
- Bishop Daily had a clear preference for keeping priests who sexually abused children in pastoral ministry and generally followed a practice of transferring those priests

without supervision or notification to new parishes rather than removing them from pastoral ministry.

- Bishop Daily apparently did not believe that a priest who engaged in such misconduct was apt to engage in such conduct in the future. Accordingly, he failed to take any meaningful steps to limit abusive priests' contact with children in the future.
- As with all Archdiocese managers, Bishop Daily failed to report allegations of clergy sexual abuse to law enforcement or seek assistance or advice from public authorities in his handling of such allegations.

ii. Bishop Robert Banks

Bishop Robert Banks succeeded Bishop Daily as Vicar for Administration in September 1984 and remained in that position until November 1990 when he became Bishop of Green Bay, Wisconsin. During his six-year tenure as second-in-command to Cardinal Law, Bishop Banks both supervised the handling of clergy sexual abuse matters and had direct involvement in the handling of those matters.

Fairly early in Bishop Banks' tenure as Vicar for Administration, the primary responsibility for handling child sexual abuse matters shifted from the Vicar for Administration to the Secretary for Ministerial Personnel who, at the time, was the Reverend (now Bishop) John McCormack.²² Generally, Bishop McCormack was responsible for reviewing allegations of sexual abuse, meeting with the accused priest, overseeing the investigation, if any, and otherwise handling all aspects of the response to the allegation. Bishop Banks was, on occasion, directly involved in the response to allegations of sexual abuse of children, and the Secretary for Ministerial Personnel generally kept Bishop Banks informed about child sexual abuse matters. In turn, Bishop Banks reported those matters directly to Cardinal Law.

²² Bishop McCormack was ordained a Bishop in 1995.

Bishop Banks' handling of allegations of sexual misconduct with children was deficient in many respects:

- Like his predecessor, Bishop Banks failed to adequately investigate allegations of sexual abuse of children or direct such investigations to be conducted;
- During Bishop Banks' tenure as Vicar for Administration, the number of allegations received by the Archdiocese increased, providing another obstacle to conducting adequate investigations of complaints, particularly because the Archdiocese did not direct additional resources to handling such matters even as the number of allegations increased;
- Bishop Banks clearly preferred to keep priests who sexually abused children in pastoral ministry and generally refrained from restricting their ministerial duties if the priest received a positive evaluation by medical personnel, even if other medical experts had cautioned the Archdiocese against returning the priest to ministerial duties. Significantly, because Bishop Banks believed that abusive priests could be rehabilitated, he did not take any steps to limit their ministry or tell others in their parish of their past conduct; and
- Consistent with the general practice, Bishop Banks failed to report allegations of clergy sexual abuse of children to law enforcement or seek assistance or advice from public authorities in the handling of such allegations.

Bishop Banks not only failed to report allegations of abuse, he was not candid when interviewed during an active criminal investigation of John Geoghan. In a June 1989 conversation with an Assistant District Attorney investigating Geoghan, Bishop Banks failed to provide full information then known to him and the Archdiocese about Geoghan's past history of child sexual abuse. In addition, even after he had concluded that Geoghan was a danger to children and needed to be taken out of parish ministry in order to undergo psychiatric treatment, Bishop Banks left Geoghan in the parish for a few additional weeks and allowed Geoghan's sole supervisor to take a two-week vacation

during that period. Bishop Banks also failed to provide truthful and candid information regarding Geoghan's status and the information that the Archdiocese already had on Geoghan's previous sexual abuse of children during several conversations he had with outside counselors working with victims of Geoghan.

In another case involving Father Eugene O'Sullivan, Bishop Banks met with the Middlesex District Attorney's Office to argue that O'Sullivan not be incarcerated. Told that the Commonwealth would seek a prison term for O'Sullivan, Bishop Banks testified at O'Sullivan's sentencing hearing and asked the judge not to imprison O'Sullivan. Ultimately, O'Sullivan was not incarcerated. Bishop Banks argued on O'Sullivan's behalf in these instances even though he knew, but failed to disclose, that O'Sullivan had abused other children and that the court was unaware of these other victims.

iii. Bishop Alfred Hughes

Bishop Hughes succeeded Bishop Banks as Cardinal Law's Vicar for Administration in 1990. He served in that position until 1993, when he became Bishop of Baton Rouge, Louisiana. In 2002, Bishop Hughes was installed as Archbishop of the Diocese of New Orleans, Louisiana.

Prior to 1990, Bishop Hughes had little involvement with priests accused of sexually abusing children. But he dealt with one such priest in 1982 when Cardinal Medeiros asked him to conduct a "spiritual assessment" of the Reverend Robert Burns. Father Burns was a priest in the Diocese of Youngstown, Ohio, who had just completed a yearlong in-patient program at the House of Affirmation in Massachusetts after he had been accused of sexually abusing children in Ohio. Upon conclusion of the in-patient

treatment program, Father Burns applied to the Archdiocese of Boston for a part-time ministry. Fully aware of Burns' history and with no specialized background in the area of child sexual abuse, Bishop Hughes met with Burns at length and found him "open, candid, and humble" and recommended that he receive a part-time ministry in the Archdiocese. Although Bishop Hughes expressed concern because of Father Burns' history of sexually abusing children, Bishop Thomas Daily (the Vicar for Administration at that time) and Cardinal Medeiros accepted his recommendation. Over the next nine years, Father Burns was assigned to two different parishes in the Archdiocese of Boston. None of the parish priests received any warning of Father Burns's history, so that Burns was left totally unmonitored and had unfettered access to children. The results were disastrous. In March 1991, just four months after Bishop Hughes became Vicar for Administration, he received the first allegation of child sexual abuse against Father Burns. During the years that followed, at least thirteen additional victims from within the Archdiocese of Boston came forward to allege sexual abuse at the hands of Father Burns.

Bishop Hughes was actively involved in supervising the response to clergy sexual abuse allegations during his two-year tenure as second-in-command to Cardinal Law. Bishop Hughes directly supervised Bishop McCormack, who had direct responsibility for clergy sexual abuse matters. Bishop McCormack generally kept Bishop Hughes apprised of clergy sexual abuse matters, including allegations and the response to allegations. In turn, Bishop Hughes kept Cardinal Law informed of those matters.

Bishop Hughes' two-year tenure as Vicar for Administration proved to be a watershed period for the Archdiocese. At the start of his tenure in 1990, the problem of clergy sexual abuse of children was still a well-kept secret. By 1992, however, the issue

was fully in the public domain with the arrests of Father Porter (Diocese of Fall River, Massachusetts) and Father Hanlon (Archdiocese of Boston) on child sexual abuse charges.

During Bishop Hughes' tenure, the Archdiocese became more aware of the magnitude of the problem of clergy sexual abuse of children, developed and promulgated the 1993 policy, created the Office of the Delegate and appointed Bishop McCormack as the first Delegate, established a Review Board to advise and guide the Cardinal on the handling of allegations against accused clergy, and handled scores of child sexual abuse allegations.

Although reports of the problem of clergy sexual abuse mushroomed during Bishop Hughes' tenure as second-in-command and the Archdiocese established written policies and procedures for handling such allegations and assigned new resources to clergy sexual abuse matters, Bishop Hughes and those he worked with during the early 1990's continued to perpetuate a practice of utmost secrecy and confidentiality with respect to the problem.

One of the most egregious examples of Bishop Hughes' behavior when dealing with child sexual abuse cases was his involvement in the handling of the Father John Hanlon case. Within a short time after Father Hanlon's indictment on child sexual abuse charges, Bishop Hughes became personally aware of another credible, but uncharged, allegation of recent sexual abuse against Father Hanlon. Despite the fact that the criminal investigators and prosecutors reached out directly to Bishop Hughes during the investigation and prosecution of Father Hanlon, he never disclosed this new information to law enforcement authorities. In keeping with one of the Archdiocese's priorities of

supporting priests accused of or found to have sexually abused children, Bishop Hughes affirmatively authorized tens of thousands of dollars in Archdiocese “loans” to pay for Father Hanlon’s defense.

iv. Bishop William Murphy

In 1993, Cardinal Law selected Bishop William Murphy to succeed Bishop Hughes as Vicar for Administration, a position he held until 2001. In 2001, Bishop Murphy became the Bishop of Rockville Centre on Long Island, New York.

As second-in-command to Cardinal Law, Bishop Murphy was the Cardinal’s chief adviser and was involved in managing daily operations at the Chancery and throughout the Archdiocese. He met with the Cardinal daily and advised him on matters across the spectrum of archdiocesan operations, including issues involving clergy sexual abuse of children.

Bishop McCormack, the newly appointed Delegate, sometimes discussed clergy sexual abuse matters directly with the Cardinal, and on other occasions conveyed information to the Cardinal through Bishop Murphy.

During his eight-year tenure as second-in-command, Bishop Murphy supervised the response to many sexual abuse cases. These included, among others, cases involving Fathers John Geoghan, Paul Mahan, Bernie Lane, Melvin Surette, and George Berthold. He also participated in arranging for Father Surette, already having been accused himself of sexually abusing children, to be Assistant Delegate responsible for arranging suitable job placements for priests found to have engaged in sexual abuse of children.

Archdiocese documents show that Bishop Murphy was aware that there were proposals to

place Surette in other jobs, but that Bishop Murphy helped place him in the Delegate's Office instead. The Archdiocese documents relating to Surette's assignment do not show any consideration of the propriety of having a man accused of sexually abusing children significantly involved in finding suitable job placements for other alleged abusers. Further, there appears to have been no appreciation of the inherent conflict of interest or appearance of impropriety in having a priest under investigation by the Delegate working as Assistant to the Delegate.

During Bishop Murphy's tenure as Vicar for Administration, the Archdiocese took some positive steps in handling child sexual abuse cases, such as operating for one year a supervised residence for abusive priests. Nonetheless, with only one exception, Bishop Murphy did not report to law enforcement any of the numerous allegations of clergy sexual abuse he reviewed nor did he ever advise the Cardinal to do so. And, even with undeniable information available to him on the risk of recidivism, Bishop Murphy continued to place a higher priority on preventing scandal and providing support to alleged abusers than on protecting children from sexual abuse. The problem was compounded because Bishop Murphy failed to recognize clergy sexual abuse of children as conduct deserving investigation and prosecution by public authorities. Instead, he viewed such crimes committed by priests as conduct deserving an internal pastoral response.

v. Bishop John McCormack

Cardinal Law appointed Bishop McCormack to the position of Secretary for Ministerial Personnel in November 1984. He began working in this position on a part-

time basis, taking on full-time responsibilities in February 1985. Bishop McCormack was appointed the Archdiocese's first Delegate in 1993, continuing to serve as both Delegate and Secretary for Ministerial Personnel until 1994. Bishop McCormack was ordained an Auxiliary Bishop in the Archdiocese of Boston in 1995 and was installed as Bishop of the Diocese of Manchester, New Hampshire, in 1998.

Bishop McCormack's involvement in handling matters related to sexual abuse of children increased during his tenure as Secretary for Ministerial Personnel as the number of allegations increased. In handling these matters, Bishop McCormack reported both to the Vicar for Administration and Cardinal Law. The Vicars for Administration during his tenure included Bishop Banks, Bishop Hughes and Bishop Murphy.

Prior to 1993, most allegations of clergy sexual abuse of children were referred to Bishop McCormack and he generally would: (1) advise the Cardinal either directly or indirectly through the Vicar for Administration; (2) notify the accused priest and seek to interview him; (3) meet with relevant Chancery staff to discuss the appropriate course of action; and (4) based upon the conclusions reached after the staff meeting, arrange for counseling and pastoral assistance to the victim and most often psychiatric evaluation and treatment of the priest. As part of the procedure, Bishop McCormack also would review the priest's confidential file to determine whether there were previous incidents of sexual abuse of children known by the Archdiocese.

In approximately 1992, Bishop McCormack discussed with Cardinal Law the need for a written policy for handling allegations of sexual abuse of children by members of the clergy. At the request of Cardinal Law, Bishop McCormack prepared a first draft of the new policy and provided it to a committee charged with reviewing and revising it.

In addition, Bishop McCormack sent the draft policy to two victims of the Reverend Ernest Tourigney. The two victims provided extensive comments on the policy to Bishop McCormack, including the suggestions that (1) the policy should not propose that offending priests be returned to ministry even under restrictions; (2) the Delegate should not be a member of the clergy; (3) there should be greater training provided to the priests charged with monitoring the offending priests; and (4) the Archdiocese should provide information to law enforcement officials so that they could seek criminal prosecution where appropriate. Significantly, none of these comments were in the policy ultimately adopted in 1993.

Once the 1993 policy was adopted and he was appointed as the first Delegate, Bishop McCormack would, after receiving an allegation: (1) advise the Cardinal either directly or indirectly through the Vicar for Administration; (2) notify the accused priest and seek to interview him; and (3) meet with relevant Chancery staff to discuss the appropriate course of action. This included Diocesan Counsel; Sister Catherine Mulkerrin and thereafter Sister Rita McCarthy, who handled the victim component of the cases; Neil Hegarty, a social worker hired on a part-time basis near the end of Bishop McCormack's tenure; and other clergy members involved in personnel matters.

Typically, once a victim came forward with an allegation of abuse, Bishop McCormack would place the accused priest on administrative leave and send him to a psychiatric institution for evaluation and treatment. After the psychiatric institution had prepared a report with its evaluation, Bishop McCormack would meet with Chancery staff to develop a recommendation for the Review Board. He would then present his recommendation, together with relevant documents, to the Review Board. The Review

Board would then either adopt or alter the Delegate's recommendation, which would be forwarded onto Cardinal Law for his approval or disapproval. At the time that this information was passed onto Cardinal Law, Bishop McCormack would provide the Cardinal with relevant information relating to the case.

Bishop McCormack also met with the Regional Bishops two to three times a year to discuss the cases in their particular regions. From time to time, members of the Chancery staff, such as Sister Catherine Mulkerrin, and the Reverends Deeley and Dooher would meet with the pastors in a particular parish affected by a particular case.

Bishop McCormack enhanced the Archdiocese's handling of allegations of sexual abuse of children in several respects. Unlike his predecessors, he sought to have a thorough and comprehensive transition to his replacement. The Reverend Brian Flatley began working part-time in the Chancery before Bishop McCormack's departure, creating a period of overlap. In addition, Father Flatley reviewed the confidential files with Bishop McCormack before his departure.

In addition, Bishop McCormack implemented the Cardinal's new 1993 policy on the Archdiocese's handling of allegations. Before the adoption of the written policy, there was no designated person handling child sexual abuse allegations on a full-time basis. By creating the Delegate position, it provided a specific channel through which all allegations against priests were supposed to be funneled from the parish level directly to the Delegate's Office.²³ In addition, the written policy created the Review Board that

²³ A flaw in the 1993 policy is that it did not apply to non-clergy Archdiocese workers. Accordingly, allegations of abuse against non-priests sometimes were not directed to the Delegate. For example, in early 2000, rumors of child sexual abuse allegations against Christopher Reardon, a Youth Minister at St. Agnes Parish in Middleton, Massachusetts, were reported to the Archdiocese's Office of Youth Ministry. The Director of the Youth Ministry Office failed to alert the Delegate's Office, instead referring the matter to the attention of the local parish priest. The local priest discussed the matter with his regional bishop.

contained lay members who were available to advise the Delegate. Indeed, Bishop McCormack sought the Review Board's advice on several occasions. Moreover, the written policy laid the groundwork for establishing monitoring of priests on restricted ministries. While the monitoring arrangements did not provide sufficient control over these priests, they at least created some form of supervision that did not exist before Bishop McCormack's tenure.

Overall, however, Bishop McCormack's handling of allegations of sexual misconduct with children was deficient in several respects:

- As an initial matter, Bishop McCormack was opposed to finding that accused priests lied about their involvement in sexual misconduct with children.²⁴
- Even when confronted with hard evidence that a particular priest falsely denied his conduct, McCormack would find that the priest was "in denial" rather than actually lying.

In addition, Bishop McCormack, over the objection of Sister Catherine Mulkerrin, insisted that all information received from victims remain in confidence and not be shared with the relevant parishes. He held this strong opinion even though he had no training or experience conducting investigations, he had not personally heard from

Remarkably, the bishop also failed to alert the Delegate's Office. The failure to report proved tragic. In the several months that passed before law enforcement authorities finally became aware of the allegations and arrested Reardon, he sexually abused additional children who had not previously been molested.

²⁴ This is also illustrated by an exchange between Bishop McCormack and a parishioner in 1987, even before he became Secretary for Ministerial Personnel. In April 1987 Bishop McCormack responded to a letter to Cardinal Law from a father whose son was an altar boy serving Father Joseph Birmingham and who wanted to know whether this was the same Father Birmingham previously removed from a parish because of allegations of sexual molestation of young boys. In spite of his knowledge of prior child sex abuse allegations against Father Birmingham, Bishop McCormack wrote the parishioner: "I contacted Father Birmingham and asked him specifically about the matter you expressed in your letter. He assured me there is absolutely no factual basis to your concern regarding your son and him. From my knowledge of Father Birmingham and my relationship with him, I feel he would tell me the truth and I believe he is speaking the truth in this matter."

victims that they wanted their information held in complete confidence, and he never explored the option of providing information to the parish without revealing identifying information about the victim. In addition, he refused to accept the opinion of Sister Mulkerrin, the person charged with working with victims in the Chancery, that the release of information would provide support to victims and would encourage other victims to come forward.

Arguably, Bishop McCormack's single greatest failing was his inability to establish means for controlling priests who were diagnosed as pedophiles or ephebophiles. Once those priests returned to the Archdiocese from psychiatric treatment, Bishop McCormack put them into "restricted" ministries approved by the Review Board and Cardinal Law. Yet, the Archdiocese lacked any means of preventing these priests from coming into contact with children either during their workday or during evenings and weekends. At best, the Archdiocese appointed priest monitors who would keep in sporadic contact with the priests, although they did not reside with the priest or work with the priest on a daily basis. During Bishop McCormack's tenure, the Archdiocese was in the process of looking for property to create a structured community to house those priests. However, the Archdiocese did not locate such a property by the time Bishop McCormack left the Chancery in 1994.

Significantly, even after Bishop McCormack realized that the Archdiocese was unable to adequately control priests who were diagnosed as pedophiles or ephebophiles, he failed to turn to public authorities for advice or assistance in handling these matters. Indeed, Bishop McCormack insisted on handling such cases as internal matters even though he knew of the availability of outside resources that could help him.

The cases that exemplified Bishop McCormack's inadequate handling of allegations of sexual abuse are Paul Mahan, Robert Gale, John Geoghan and Paul Shanley. In each of these cases, Bishop McCormack was aware that the priest had abused children and yet he failed to take adequate steps to restrict their ministries or put them under adequate supervision to prevent them from engaging in further abuse of children. In fact, Robert Gale and John Geoghan went on to abuse other children while on restricted ministries.

vi. The Reverend Brian Flatley

The Reverend Brian Flatley succeeded Bishop McCormack as Delegate in October 1994, and remained in that position until September 1996. Since 1996, he has been pastor of St. Agnes Parish in Arlington.

Father Flatley took seriously his job responsibilities as Delegate. Before formally starting in October 1994, he went to the Chancery and attempted to organize the files and learn about the priests for whom he would be responsible. As an example, he prepared a memorandum summarizing the contents of the Geoghan file on August 22, 1994, two months before his start date. Father Flatley initiated the practice of an "Annual Report" of the activities of the Delegate's Office.²⁵ See Appendix 3. The Reports contained statistical information, including total number of accused priests, total number of

²⁵ An example of the demand of secrecy that existed within the Archdiocese is found in the first Annual Report prepared by Father Brian Flatley, who was the Delegate for the fiscal year that closed on June 20, 1995. In his opening remarks, Father Flatley wrote: "The material for this report was collected with the utmost attention to confidentiality. Individual sections of the report were produced by those staff who have access to that specific material, however, Father Flatley is the only person who has access to the composite report, i.e., all of the sections. Whenever possible, the production of the individual sections, i.e., typing, copying, etc., was done directly by the person responsible for the material and not delegated to other staff. This may result in different forms of type or layout for individual sections. The total report is not stored in any word processors. There are only three paper copies of the total report and they are all in Father Flatley's control."

complainants, number of cases presented to the Review Board, total annual civil settlements paid, assessment/treatment costs paid on behalf of accused priests, and counseling costs paid on behalf of complainants. The Reports also contained a “Trends” section, and an “Unmet Needs” section containing observations and information. In the first Annual Report, Father Flatley noted a growing trend of accused priests retaining lawyers who were counseling the priests not to say anything to the Archdiocese or submit to an in-patient assessment. Father Flatley noted that on occasion this “slowed the intervention process,” and that the Archdiocese was initiating an “effort to manage the counseling care of complainants.” Also, in the “Unmet Needs” section, the Annual Reports spoke in detail about the Archdiocese’s efforts to establish a supervised residence and develop work opportunities for the growing number of accused priests who could not be returned to parish ministry. Cardinal Law received the Annual Reports, and spoke with Father Flatley about them.

Father Flatley recognized that the Archdiocese’s top “unmet need” was secure, supervised housing (similar to what our correctional system might call a pre-release facility) for the most dangerous priests. Considerable effort was spent during his tenure working with a committee assigned to find a suitable location for such a secure residential center.²⁶

Although hard to quantify, memoranda prepared by Father Flatley and found in the files of various accused priests suggest that he took more of a no-nonsense approach to the job than his predecessors and successors. He recognized the dangerous priests for

²⁶ Significantly, the Archdiocese did not implement this proposal until local media publicized the fact that the Archdiocese was housing pedophile and ephebophile priests in an unsupervised facility in a residential neighborhood of Milton, Massachusetts. In the late 1990’s, the Archdiocese opened a supervised home for abusive priests in Georgetown, Massachusetts. It was closed after only one year of operation.

what they were, and attempted to deal with them firmly, albeit within a culture and system that treated these people as colleagues rather than criminals.

Despite Father Flatley's efforts, there were substantial shortcomings in how the Delegate's Office conducted business. During Father Flatley's tenure, and in fact throughout the entire Cardinal Law era, the Delegate did not pursue anything short of a complaint directly from a victim or a victim's representative. The Archdiocese essentially disregarded anonymous complaints and complaints from third parties, regardless of the level of specificity of the information.

The penchant for complete secrecy remained both the expectation and the reality. Whether spoken or unspoken, there was a presumption against disclosure of information, especially outside the Archdiocese. During Father Flatley's tenure there was never an unsolicited disclosure to law enforcement officials and on the rare occasions when police did become involved, Father Flatley and other Archdiocese officials never revealed all that they knew.

Father Flatley and other senior Archdiocese managers knew that supervision and supervised housing of accused priests was their single biggest "unmet need," yet they did virtually nothing to supervise Fathers Geoghan, Gale and others they viewed as substantial risks to children. Even a precaution as simple as prohibiting an accused priest from wearing clerical attire generally was not pursued.

vii. The Reverend William Murphy

The Reverend William Murphy (not to be confused with Bishop William Murphy) succeeded Father Flatley as Delegate in 1996, and he remained in that position

until 1999. After leaving the position of Delegate, Father Murphy became a spiritual director at St. John's Seminary.

As Delegate, Father Murphy was supervised on a daily basis by Bishop Murphy (no relation), the Vicar for Administration. Father Murphy also had direct contact with Cardinal Law, and he generally kept both the Cardinal and Bishop Murphy apprised of significant clergy sexual abuse matters. The 1993 sexual misconduct policy designated the Delegate as the Church's internal investigator of allegations of sexual abuse. However in practice, Father Murphy, like the Delegates that preceded him, did very little investigating. In large part this was because he viewed his role primarily as pastoral, but also because he was not trained or experienced in conducting investigations.

During his tenure as Delegate, Father Murphy had very limited contact with law enforcement officers despite receiving a large number of complaints of clergy sexual abuse. Moreover, in those few circumstances in which he spoke with law enforcement, Father Murphy only provided limited information.

Early in his tenure as Delegate, Father Murphy sought the advice of Father Bernie Lane on handling clergy sexual abuse allegations and he employed Father Melvin Surette as an assistant in the Delegate's Office. At the time, both Lane (who was employed as Associate Director of the Office for Senior Priests) and Surette (who was working in the Delegate's Office finding job placements for accused priests) had been accused of sexually abusing children at a Department of Youth Services residence that Lane ran in the 1970's. Although Father Murphy sought the advice of an accused abuser and employed another as his assistant, he did not seek the advice of victims or independent professionals. Father Murphy's approach was consistent with the general

approach of the Archdiocese to focus on providing support to alleged abusers, and not to focus on conducting thorough investigations, seeking outside advice, or taking firm action calculated to minimize the risk to children in the future.

Even though the supervised residence recommended by Father Flatley closed after one year and the idea was abandoned (the Archdiocese was not willing to dedicate sufficient funds to the effort and pedophile and ephobophile priests were not willing to live in such a setting)²⁷, Father Murphy did little to establish restrictions or impose meaningful supervision on pedophile and ephobophile priests in their housing and employment settings. Under Father Murphy's watch, the Archdiocese placed serial child molesters in housing and employment settings where there were real possibilities of contact with children.

viii. Sister Catherine Mulkerrin

Sister Catherine Mulkerrin graduated from Regis College in 1963, received a Master's Degree in Library Science from Simmons College in 1966, and later a Master's Degree in Religious Studies from Fordham University in 1989. She joined the Sisters of St. Joseph in 1954, and served as its President from 1978 to 1984 where she was in charge of approximately 1,300 nuns.

In Spring 1992, Cardinal Law personally asked Sister Mulkerrin if she would come to work for the Archdiocese and help Bishop McCormack handle allegations of clergy sexual misconduct against children. Sister Mulkerrin joined what would soon become formally known as the Office of the Delegate on August 3, 1992. She served in that capacity for approximately two years, officially stepping down on September 1,

²⁷ See footnote 24, *supra*.

1994. Her job responsibilities revolved around victim issues, and in particular providing a “pastoral response” to victims, while Bishop McCormack’s focus was on the priests accused of sexual abuse. Up to this point, Bishop McCormack – as Secretary of Ministerial Personnel – had served both functions. The volume of allegations received by the Archdiocese made this impractical, however, and Sister Mulkerrin became the primary Archdiocese liaison for the victims of clergy sexual abuse. In many respects, Sister Mulkerrin served as a Co-Delegate with Bishop McCormack.

From the outset, Sister Mulkerrin was shocked by the extent of the problem. Soon after she arrived, she began keeping a list of priests against whom sexual abuse allegations were made. During her two years in the Office of the Delegate, Sister Mulkerrin’s list grew to more than one hundred different names, including both Archdiocese priests and religious order clerics who worked within the Archdiocese. She shared this list with members of the Delegate’s Office. During her two-year tenure in the Office of the Delegate, Sister Mulkerrin personally met with a minimum of 200 victims and family members. Sister Mulkerrin and others on the staff of the Delegate’s Office viewed the clergy sexual abuse problem as a crisis. Within the Archdiocese, Sister Mulkerrin was a strong and lonely advocate for change during her tenure in the Delegate’s Office:

- During formulation of the 1993 policy, Sister Mulkerrin advocated that it (1) clearly reflect that victims were the Archdiocese’s first priority, and (2) that it apply to schools and other Archdiocese institutions, not just clergy. Her suggestions were not incorporated into the final policy.
- She repeatedly urged Bishop McCormack to use parish bulletins to both alert parishioners whenever the Archdiocese determined that a present or former priest of the parish may have sexually abused a child, and to provide contact

information in the event that other parishioners had questions or wanted to report abuse. Her repeated requests to communicate with parishioners were rejected.

- Sister Mulkerrin urged the Archdiocese to hold “healing masses” in parishes where the parish priest had sexually abused children. The Archdiocese also rejected this at the time, although it later implemented those masses, in certain situations, after her departure.
- Sister Mulkerrin believed that there were eight to twelve living priests who were especially worrisome, and a real danger to children. In particular, she pointedly warned Bishop McCormack and the Delegate’s staff about the lack of supervision of Father John Geoghan and Father Robert Gale, and she was especially troubled when she saw Father Geoghan wearing clerical attire at a Christmas Party and on another occasion at a meeting. She said as much to Bishop McCormack. Neither Geoghan nor Gale was more closely supervised after she complained, and both priests went on to abuse other children.

ix. Sister Rita McCarthy

Sister Rita McCarthy succeeded Sister Mulkerrin in 1994 as the point-person for victims in the Delegate’s Office. Sister McCarthy received a Bachelor of Arts Degree in Education from Regis College, a Masters Degree in Education from Boston University, and a degree in social work from Northeastern University. She joined the Sisters of St. Joseph in 1950. Before joining the Delegate’s Office, Sister McCarthy had been an elementary and high school teacher, and she had run a group home for teenage girls for nineteen years.

Sister McCarthy remained with the Delegate’s Office full-time until 1998, when she assumed “on call” (essentially part-time) status. At the time of her hire, Sister McCarthy understood that the assignment was for two years, which was consistent with other staff members who were brought into the Office. During her tenure, she worked

briefly with Bishop McCormack, but for most of her tenure, she worked under Fathers Flatley and Murphy.

Sister McCarthy's job responsibilities paralleled those of Sister Mulkerrin before her. Sister McCarthy's job included initial interviews with "complainants" (as she and the Delegate's Office referred to victims); writing up reports for the Delegate; putting victims in touch with counseling services (the Archdiocese had a three-page list of counselors to whom victims were referred); obtaining signed "waivers" (stating that the Archdiocese was not admitting any liability by virtue of paying for counseling services); obtaining signed "releases" for counseling records (at least in part so that the Archdiocese could better assess, manage, and control counseling services and the attendant costs); processing bills from counselors and other medical providers who treated victims; putting on workshops; and preparing for and attending Review Board meetings.

In large part, Sister McCarthy continued the work being done by Sister Mulkerrin without significantly changing or improving upon the work done by her predecessor. However, during Sister McCarthy's tenure, the Archdiocese adopted several suggestions first made by Sister Mulkerrin, including holding healing masses in several instances and, in at least one instance (Father Geoghan), using the parish bulletin to alert parishioners to a priest's abuse of a child.

3. The Archdiocese Did Not Notify Law Enforcement Authorities of Clergy Sexual Abuse Allegations

Throughout the decades that the Archdiocese was dealing with a large and growing problem of clergy sexual abuse of children, it steadfastly maintained a practice of not reporting allegations of sexual abuse of children to law enforcement or child

protection authorities. This practice continued even after the Archdiocese created the Office of the Delegate, and even when the Archdiocese was dealing with priests who continued to abuse children after unsuccessful intervention by the Archdiocese.

In fact, the Attorney General's investigation revealed only two instances during Cardinal Law's administration when the Archdiocese affirmatively reached out to law enforcement – in 1993 the Archdiocese reported to the Middlesex County District Attorney's Office that a pastor believed he had observed another priest (Father Paul Manning) having sex with a young boy, and in 1997 the Archdiocese notified law enforcement of allegations against Father Paul Mahan.

During the course of the Attorney General's investigation, Archdiocese personnel gave different explanations for why they did not report abuse allegations to public authorities, including:

- State law did not mandate that priests report suspected child abuse to law enforcement or child protection authorities;
- The Archdiocese felt less compelled to report abuse because most clergy sexual abuse was reported years after the abuse had occurred and after the victim had reached adulthood;
- Because most abuse was reported years after it occurred, the Archdiocese managers were less inclined to report the abuse because of their belief that the state's applicable statutes of limitation barred criminal prosecutions;
- The Archdiocese believed that Canon Law – the church's internal policies and procedures – prohibited it from reporting abuse to civil authorities in most instances;
- The Archdiocese was concerned about the impact that reporting to civil authorities would have on the alleged abuser's reputation and well-being;

- The Archdiocese believed that reporting allegations of abuse would violate victims' privacy rights and undermine the relationship between victims and the Archdiocese;
- The Archdiocese believed that reporting allegations of abuse to civil authorities would make other victims more reluctant to come forward;
- The Archdiocese believed that victims, and not the Archdiocese, should make the decision whether to report alleged abuse to civil authorities; and
- The Archdiocese believed that reporting of clergy sexual abuse of children to civil authorities would cause scandal, and the resulting publicity would harm the reputation of the Church.

If the Archdiocese had adopted a policy of reporting abuse allegations to civil authorities, it is likely that the combined effect of the ensuing law enforcement investigations and public scrutiny would have reduced significantly the number of children who ultimately were victimized.

4. Archdiocese Officials Did Not Provide All Relevant Information to Law Enforcement Authorities During Criminal Investigations

In the very few cases where allegations of sexual abuse of children were communicated to law enforcement, senior Archdiocese managers remained committed to their primary objectives – safeguarding the well-being of priests and the institution over the welfare of children and preventing scandal – and often failed to advise law enforcement authorities of all relevant information they possessed, including the full extent of the alleged abuser's history of abusing children. The Archdiocese's practice of providing minimal information and support to law enforcement authorities resulted in investigative and prosecutorial decisions being made on less than complete information.

In addition to Bishop Banks' lack of candor with prosecutors and the court in the Father O'Sullivan case in 1984, other examples include:

Father John Geoghan

In February 1989, the Suffolk County District Attorney's Office initiated a criminal investigation of alleged sexual abuse by Father John Geoghan after a therapist reported he was treating a boy who was a Geoghan victim. During the course of the District Attorney's investigation, investigators talked to the reporting therapist as well as another therapist who three years earlier had treated a different boy who had been sexually abused by Geoghan. Both therapists informed the District Attorney's investigators that they also had reported the sexual abuse directly to Bishop Banks and that Banks had assured them that Father Geoghan was receiving psychiatric treatment and had been reassigned to another parish where he would not have contact with children.

In June 1989, the District Attorney's Office spoke with Bishop Banks about the abuse allegations. Although Bishop Banks informed the investigators that Father Geoghan was going to begin a six-month course of treatment in August 1989, he did not disclose that he was aware of prior sexual abuse complaints against Father Geoghan, that Geoghan previously had admitted sexually abusing children, and that Geoghan already had received a damning psychiatric evaluation. More particularly, Bishop Banks failed to disclose that in April 1989 (just two months earlier), St. Luke Institute had issued a report to Bishop Banks indicating that Father Geoghan posed a "high risk" to children and that he should attend in-patient treatment at their facility. Bishop Banks also failed to disclose that he previously had received information from another psychiatric

professional who had treated Father Geoghan that included an admonition that he had “better clip his wings before there is an explosion.” In August 1989, Geoghan began a six-month in-patient treatment program at the Institute of Living.

In early January 1995, the Middlesex County District Attorney’s Office began an investigation of separate allegations that Father Geoghan had recently engaged in sexual misconduct with three children. As was the case in its earlier dealings with the Suffolk County District Attorney’s Office, the Archdiocese was aware of multiple allegations against Father Geoghan and that he had been diagnosed as a pedophile. Father Geoghan had been reassigned several times because of such allegations and, at the time of the Middlesex investigation, Geoghan was serving as Assistant Director of the Office of Senior Priests. Top officials at the Archdiocese who were aware of the District Attorney’s investigation made no effort to contact prosecutors and share the information they had regarding Father Geoghan’s lengthy history of sexual abuse of children or diagnosis as a pedophile.

In February 2002, Geoghan was sentenced to nine to ten years in state prison for molesting a ten-year-old boy.

Father John Hanlon

In 1992, Father John Hanlon was indicted in Plymouth County for sexually abusing a boy while assigned to a parish in Plymouth several years earlier. Two months after Hanlon was arraigned on those charges, Bishop Hughes learned through another parish priest of a much more recent allegation that a boy in Hingham had accused Father Hanlon of sexual abuse. Despite knowing of the more recent alleged abuse, Bishop

Hughes failed to disclose the information to the prosecutor's office – even when contacted by investigators involved in the case. Moreover, as the case moved through the court system and Father Hanlon vigorously and publicly denied the allegation, Bishop Hughes authorized tens of thousands of dollars in church loans to finance Father Hanlon's defense; a defense which fueled widespread, and ultimately misplaced, public support for Father Hanlon. Ultimately, as Father Hanlon's first trial was nearing its conclusion, the victim known to Bishop Hughes came forward and reported his abuse to law enforcement. It was too late to be used in the first trial, though, and the jury ultimately was unable to reach a verdict. At the retrial that followed several months later, multiple victims abused by Father Hanlon testified, including the second victim known to Bishop Hughes. Father Hanlon was swiftly convicted, and sentenced to life imprisonment.

5. The Archdiocese Failed to Conduct Thorough Investigations of Clergy Sexual Abuse Allegations

Under both Cardinal Law and Cardinal Medeiros before him, the Archdiocese repeatedly failed to thoroughly investigate allegations of clergy sexual abuse of children, including the facts of the alleged abuse and the history of the alleged abuser. While the practices and policies of the Archdiocese for investigating allegations of clergy sexual abuse changed and evolved during Cardinal Law's administration, several remained constant. The Archdiocese did not investigate general, anonymous, vague and third-party complaints. Because secrecy remained a top priority, the Archdiocese did not explore potential sources of information concerning allegations of clergy sexual abuse or accused priests' prior conduct.

At the beginning of Cardinal Law's tenure as Archbishop, the Vicar for Administration generally did little more than review an alleged victim's complaint and the alleged abuser's response and then do what was necessary to both pacify the victim and the abuser and maintain the secrecy of the allegation and the abuse. Primary responsibility for investigating and handling allegations shifted to the Secretary of Ministerial Personnel even though the Secretary was no more experienced in conducting such investigations. The 1993 policy did little to improve the quality or thoroughness of the Archdiocese's investigations of allegations of sexual abuse of children. Even with a staff assigned to handle child sexual abuse allegations, the Archdiocese:

- Failed to train the Delegate's staff in conducting interviews or investigations;
- Conducted only perfunctory interviews of accused priests;
- Made little or no effort to determine the credibility of the allegation through interviews or other corroborative evidence if an accused priest denied an allegation;
- Made little or no effort to obtain anything more than a minimal level of information from the victim, or corroborate the victim's allegation;
- Made no effort to determine if there were other victims, even when the initial victim stated that other victims existed;
- Took little or no action to investigate anonymous complaints or complaints from third parties; and
- Did not inquire of other priests, Archdiocese workers, or parishioners in the parish where the alleged abuse took place.

6. The Archdiocese Placed Children At Risk By Transferring Abusive Priests To Other Parishes

During Cardinal Medeiros' tenure as Archbishop and during the early years of Cardinal Law's administration, the Archdiocese's response to allegations of clergy sexual abuse of children included at times quietly transferring the alleged abuser to a different parish in the Archdiocese, sometimes without disclosing the abuse to the new parish or restricting the abusive priest's ministry functions. These transfers tended to appease the concerns of victims because the abusive priests no longer were in their communities, and scandal was avoided because there was no public discussion of, or reporting on, the abuse. However, this practice of reassigning abusive priests placed new children at risk and evidenced the Archdiocese's failure to set the protection of children as a higher priority than protecting the well-being of abusive priests.

Examples of priests being transferred to new parish assignments after the Archdiocese was put on notice of allegations of sexual abuse:

Father John Geoghan

The repeated reassignments of Father John Geoghan in the 1980's under Cardinals Medeiros and Law provide an example of the way in which the Archdiocese reassigned a number of priests after receiving complaints of sexual abuse or suspicious conduct with young children.

- In 1979, Bishop Daily was advised of a complaint of "a moral nature" against Father Geoghan. Evidence provides no details of the complaint but does indicate the Archdiocese quickly determined the accusation was false.

- In February 1980, the Archdiocese received a report that Father Geoghan had sexually abused several children in one family. Father Geoghan was placed on sick leave three days later. While on leave, Father Geoghan was evaluated and treated on an outpatient basis by two psychiatrists. In January 1981, one of those psychiatrists concluded Geoghan could return to ministerial duties.
- In February 1982, upon his return, Father Geoghan was assigned to a new parish. Five months later, a relative of the children abused by Father Geoghan in 1980 reported seeing him in an ice cream store with a young boy and relayed anger that Father Geoghan was still a priest. That complaint was communicated to Cardinal Medeiros and one month later Father Geoghan was authorized to go to Rome for a three-month seminar. Following his studies in Rome, Father Geoghan returned to his same parish assignment.
- In September 1984, the relative of the children abused by Father Geoghan in 1980 complained to Cardinal Law that Father Geoghan was still assigned to a parish despite his history of abuse. Within one week, Father Geoghan's assignment to the parish was terminated and in October 1984 he was assigned to a new parish in Weston, Massachusetts.³⁰
- In 1989, after receiving several unrelated complaints about Father Geoghan sexually abusing children in 1983 and 1984, the Archdiocese sent Father Geoghan to St. Luke Institute for evaluation and then to The Institute of Living for treatment. Just six months after going to St. Luke and being diagnosed as a pedophile, Father Geoghan was reassigned to the same parish in Weston.
- In July 1992, the Archdiocese received another complaint that Father Geoghan sexually abused a child. In January, 1993, Father Geoghan's assignment to the parish

³⁰ At least one senior Archdiocese manager voiced opposition to this transfer. Bishop John D'Arcy, who at the time was the Regional Bishop responsible for the area where Geoghan was assigned, wrote a letter to Cardinal Law in December 1984, protesting the assignment. In his letter, Bishop D'Arcy said that he had heard that Father Geoghan's reassignment may be related to Geoghan's sexual activity with young boys and he warned that if Geoghan abused a child in his new assignment, the parish "will be convinced that the Archdiocese has no concern for their welfare and simply sends them priests with problems." At the time that Bishop D'Arcy wrote this letter, Cardinal Law had already told him that he was going to be offered an assignment to another diocese as a Bishop.

in Weston was terminated and he was transferred to the Office for Senior Priests in the Chancery.

Father Paul Rynne

- In February 1985, Father Rynne was assigned as the pastor to a parish in Manomet, Massachusetts.
- In April 1986, Bishop Banks received information from several different sources, including at least one parish priest, alleging that Father Paul Rynne was involved in photographing nude or partially nude young boys.
- In August 1986 Father Rynne was sent to Southdown Institute for a psychiatric evaluation.
- In August 1987, Father Rynne was reassigned to a parish in Brockton as a parochial vicar. There is nothing in the Archdiocese files to indicate that the parish priest or parishioners there were advised of the allegations against him.
- In January 1994, a mother wrote a letter to Cardinal Law alleging that Father Rynne sexually abused her son in 1960.
- In May 1994 Cardinal Law ended Father Rynne's parish assignment and placed him on sick leave.

Father Joseph Welsh

- In December 1993, Father Welsh was assigned to a parish in Newton, Massachusetts, as an administrator after serving as a parochial vicar at a parish in Franklin, Massachusetts, since June 1990.
- From February to November 1995, Father Welsh was on unassigned status but living in the residence of the same Newton parish.
- Father Welsh's file includes a March 1995 note to Father Flatley referencing a December 1993 call from a mother alleging that Father Welsh sexually abused her son. After, it appears that Father Welsh was reassigned from Franklin to Newton shortly after the Archdiocese received an allegation of child sexual abuse against him.

- In November 1995, Father Welsh was assigned to a parish in Lynn, Massachusetts, as an administrator.
- Father Welsh was unassigned from November 1996 to February 1997 before being assigned to a parish in Abington, Massachusetts, as pastor in February 1997.
- In May 2001, Cardinal Law received an anonymous letter from a woman alleging that Father Welsh sexually abused her son many years earlier.
- In February 2002, Father Welsh was placed on unassigned status.

Father Daniel Graham

- Father Graham was ordained in 1970 and assigned to a parish in Stoughton, Massachusetts, as an assistant pastor. In 1975, Father Graham was assigned to a parish in Quincy, Massachusetts, as an associate pastor.
- In July 1986, a victim of clergy sexual abuse wrote the Archdiocese asking to meet with Archdiocese officials to discuss the issue of clergy sexual abuse of children. The letter did not name the victim's abuser. There were subsequent letters exchanged in 1986, but it was not until an April 1988 letter to Cardinal Law that the victim identified Father Graham as his abuser and stated that the alleged abuse had taken place 20 years earlier.
- In April 1988, shortly after Cardinal Law received the letter, Bishop Banks spoke to Father Graham about the allegation and learned that Father Paul Shanley had been acting as a liaison between the victim and Father Graham, and that Father Shanley had explained to the victim that Father Graham had turned his life around.
- In May 1988, Father Graham acknowledged his past sexual behavior with the victim to Bishop Banks. Bishop Banks then referred Graham to a local psychiatrist for an evaluation.
- In June 1988, Father Graham wrote an apology letter to the victim and he was assigned to a parish in Dorchester, Massachusetts, as a vicar. Archdiocese records indicate that Bishop Banks apprised the pastor of the Dorchester parish of the child

sexual abuse allegation against Graham. However, there is no evidence parishioners there were advised of the allegation.

- In 1990, Father Graham was assigned to a parish in Quincy as pastor, appointed Vicar of the Quincy Vicariate in 1996 and reappointed to this position in January 2002.
- In February 2002, as media reports detailed the child abuse scandal in the Archdiocese, Father Graham resigned his positions as pastor of St. Joseph Parish in Quincy and Vicar of the Quincy Vicariate.

7. The Archdiocese Placed Children At Risk By Accepting Abusive Priests From Other Dioceses

Not only did the Archdiocese quietly transfer abusive priests to other parishes within the Archdiocese, but it also placed children at risk by accepting priests from other dioceses with full knowledge that they had a history of being accused of sexually abusing children. The cases of Fathers Francis Murphy and Robert Burns serve as examples.

Father Francis Murphy

Father Francis Murphy was working in the Diocese of Anchorage, Alaska, when in 1985 he was accused of sexually abusing a sixteen- or seventeen-year-old boy. Additionally, police in Alaska recovered large quantities of child pornography that had been in the possession of Father Murphy. Following an assignment to St. Louis, Missouri, for “treatment,” the Archdiocese of Boston accepted Father Murphy and assigned him to a hospital ministry. Father Murphy’s Archdiocese files make clear that the Archdiocese was aware of the Alaska allegation of child sexual abuse when he was accepted by the Archdiocese and assigned to a ministry. At the insistence of the Bishop of Anchorage, Murphy’s supervisor and the administrator at the hospital were informed

of the allegations against him. However in 1995, after the Archdiocese learned that another child sexual abuse allegation, albeit an old one, had been made against Murphy in Alaska, Murphy's assignment to the hospital was revoked because Cardinal Law and Bishop Murphy were concerned that he could still have contact with children through his assignment.

Father Robert Burns

Father Robert Burns was ordained in Ohio in 1975 and was working in the Diocese of Youngstown, Ohio, when in the early 1980's he was accused of sexually abusing more than one young child. As a result of the abuse allegations, the Diocese of Youngstown sent Father Burns to The House of Affirmation for in-patient treatment. In 1982, as Father Burns was preparing to end his in-patient treatment, he requested assignment within the Archdiocese. Father Burns' Archdiocese files make clear that the Archdiocese was fully advised of Father Burns' history of accusations he sexually abused children and of his treatment at The House of Affirmation. The files also make clear that senior Archdiocese managers were concerned about the risk Father Burns posed to children and believed that he should not be placed in a ministry that was near a school. Despite these concerns, the Archdiocese accepted Father Burns into the Archdiocese and assigned him to unrestricted ministerial duties at a parish in Jamaica Plain without notifying the parish priest of his history. At least fourteen people have now complained that Father Burns sexually abused them as children during his tenure in the Archdiocese.

8. The Archdiocese Placed Children at Risk by Transferring Abusive Priests to Other Dioceses in the United States and Abroad

The Archdiocese also arranged for or assented to the transfer of sexually abusive priests so that they could work or reside in other dioceses in the country. The motivation for these transfers appears to have been to prevent further scandal within the Archdiocese and to accommodate the wishes of the alleged abusers. Examples of such transfers include:

Father Eugene O'Sullivan

After Father Eugene O'Sullivan was sentenced to five years of probation following his 1984 arrest on charges he sexually abused a boy while at a parish in Arlington, the Archdiocese sent Father O'Sullivan to Southdown Institute in Ontario, Canada, for a six-month in-patient treatment program. Following completion of the treatment program, the Archdiocese worked with Father O'Sullivan to secure him a ministry assignment elsewhere in the country. In a July 1985 memorandum, Bishop Banks noted that he was going to investigate with Father O'Sullivan the possibility of his working in another diocese. In the same month, Bishop Banks wrote a letter to Bishop Daily, the former Vicar of Administration for the Archdiocese then serving as Bishop of the Palm Beach Diocese, about the possibility of O'Sullivan being assigned there.

Archdiocese records reflect that O'Sullivan ultimately transferred to the Diocese of Metuchin, New Jersey, in October 1985 with the approval of Cardinal Law.²⁸ While Archdiocese records reveal that Diocese officials in Metuchin were informed of Father

²⁸ In a July, 1985 letter from Bishop Banks to Father O'Sullivan, the bishop stated, "For various reasons, my own suggestion is that we might think of the Diocese of Metuchen in New Jersey. I understand that they have a critical need of priests, and the bishop is a friend of Cardinal Law."

O'Sullivan's relevant child sexual abuse history and were advised to closely monitor him, it appears that the Archdiocese of Boston did not recommend that Father O'Sullivan's ministry be restricted to limit or prevent contact with children. In this instance, the Archdiocese was willing to risk O'Sullivan sexually abusing a child in another diocese even though he had been convicted of sexually abusing a child in the Archdiocese.

Father Paul Shanley

Repeatedly throughout the 1970's and 80's, Cardinal Medeiros and others in the Archdiocese were made aware of opinions openly expressed by Father Paul Shanley in support of sexual relations between grown men and boys. Similarly, at the outset of Cardinal Law's tenure in the Archdiocese, Cardinal Law and his senior staff became aware of these same opinions. Despite their awareness of Father Shanley's openly expressed views, Archdiocese senior managers assented to his transfer to the Diocese of San Bernadino, California, without providing that diocese with the information they had received on Father Shanley. Moreover, in January 1990, Bishop Banks wrote a letter to the Bishop in San Bernandino assuring him that Father Shanley was a priest "in good standing" with no problems that would be of concern to the Diocese of San Bernadino.

In 1992 and 1993, while Father Shanley was still in San Bernadino, several victims came forward to the Archdiocese of Boston and reported that he had sexually abused them as children while in Massachusetts. It is unclear whether the Archdiocese affirmatively advised the Diocese of San Bernadino of the allegations and, if so, the extent of the notification, even after the allegations had been received and credited by the Archdiocese's senior management.

In December 1993, long after the Archdiocese received and credited the allegations, the Delegate, with the Review Board's approval, permitted Father Shanley to continue residing in California on an interim basis. Father Shanley then moved to San Diego and later to Palm Springs. Neither of those dioceses were notified of Father Shanley's presence. It was not until January 1995, over two years after the Archdiocese's receipt of allegations, that Cardinal Law approved the Review Board's recommendation of October 3, 1994, that Father Shanley remain on sick leave, live out of state, and not perform any ministry. The Review Board also recommended that the bishop in the area where Shanley was residing be informed about his presence, his inability to carry out priestly ministry, and be asked permission for Shanley to live there. The Review Board also recommended that the Archdiocese appoint someone to contact Shanley on a regular basis to ensure he was not carrying out ministry.

Soon after Cardinal Law's approval of this Review Board recommendation, Father Shanley moved to New York City where he began working as Assistant Director at Leo House, a small Catholic hotel for travelers and religious personnel. During the approximately two years that he worked at that facility, the New York Archdiocese was informed of the allegations pending against Father Shanley and the Archdiocese remained in close contact with Father Shanley in an effort to monitor his activities. In 1997, with the pending allegations still unresolved, the Archdiocese supported Father Shanley's bid to become Director at Leo House. Ultimately, Father Shanley was denied the position primarily based upon the opposition of Cardinal John O'Connor, Archbishop of the New York Diocese.

After being denied the Director position at Leo House, Father Shanley moved to San Diego, California, where the diocese was notified of his presence and restrictions on his ministry. Thereafter, the Archdiocese continued to learn of additional victims of Father Shanley's abuse during the period before his 1990 departure for California. In June 2002, Cardinal Law sought to remove Father Shanley from the priesthood, premised upon the numerous complaints of abuse.

9. The Archdiocese Failed To Adequately Supervise Priests Known To Have Sexually Abused Children In The Past

During Cardinal Law's tenure, priests accused of sexually abusing children were transferred in almost all instances to new residential, ministerial, or administrative assignments, whether or not there was a period of psychiatric treatment resulting from an allegation. These transfers appeased victims by removing abusive priests from their parishes and promoted the well-being of accused priests by placing them in new environments where they could have a "clean start." These transfers to supposedly "restricted" ministerial positions, however, did not ensure the protection of children.

Early in Cardinal Law's administration the Archdiocese did not restrict accused priests' ministerial functions when they were transferred to new parish assignments. Together with the fact that information about the abusive priest's history was not shared with his new co-workers or parishioners, it is evident that these types of transfers neither were intended to nor were able to protect children. Rather, the transfers simply placed abusive priests in new environments without reducing the risk of future sexual abuse of children. As Cardinal Law's tenure progressed into the 1990's, the Archdiocese began to take steps to limit abusive priests' exposure to children by restricting their residential and

ministerial assignments, even after they had completed in-patient psychiatric treatment programs. With the implementation of the 1993 policy and the creation of the Review Board, the Archdiocese had become more selective about where it transferred abusive priests. For example, beginning in 1993, the Archdiocese no longer transferred abusive priests outside of Archdiocese. Additionally, in most instances the Archdiocese stopped transferring abusive priests to other parishes and placed them in ministerial assignments where it was believed they would have reduced exposure to young children.

These “restricted” ministries included assignments to hospitals, nursing homes, prisons, social service programs for adults and elders, and administrative positions in the Chancery. For example, Father Geoghan was assigned to the Office of Senior Priests, Father Edward Kelley was assigned to the Development Office, Fathers Paul Tivnan and Ronald Paquin were assigned to hospitals, and Father Surette was assigned to assist the Delegate in locating job opportunities for priests accused of sexually abusing children. Abusive priests in “restricted” ministries still were permitted to wear clergy attire in these placements and in public, which certainly could be expected to assist pedophile or ephebophile priests in gaining access to and the trust of young children.

By 1994 and 1995, as the number of priests on “restricted” ministries increased, the Office of the Delegate was struggling to find appropriate work assignments for these priests. In his Annual Report of the Delegate’s Office for the fiscal year ending on June 30, 1995, Father Flatley discussed the need to “develop work opportunities for priests who now have limited ministry or are precluded from active ministry.”

By 1995, Father Flatley also was concerned about the residential assignments of abusive priests, especially those priests who were particularly predatory or presented a

current and ongoing danger to children. Up until that point, and despite the fact that the 1993 policy called for abusive priests to live in supervised residences, abusive priests often continued to live in parish rectories, or in private homes.

Father Paul Mahan's case provides a graphic illustration of the danger of abusive priests living unsupervised. On November 5, 1993, following receipt of multiple allegations of child sexual abuse against him, the Archdiocese sent Mahan to St. Luke for a six-month in-patient treatment program. He was discharged back to the care of the Archdiocese on May 10, 1994. Because there was no supervised facility to transition him into, however, the Archdiocese knowingly let him spend the summer of 1994 in a completely unsupervised private home in Marblehead, Massachusetts. It was not until early September that the Archdiocese learned of Mahan's activities that summer. On September 8, 1994, an official of St. Luke called the Archdiocese and reported that several former patients of St. Luke had visited Mahan over the course of the summer and that each of them had contacted St. Luke to express a high level of concern about Father Mahan. Among their concerns: Father Mahan was drinking; three or four minors, including his nephew, were in the house; he would be dressed inappropriately in front of the boys; sexual conversation often went beyond boundaries; there was an overt encouragement of sexuality; and there was a legitimate question of whether one of the boys was sleeping in the same room with Father Mahan.

Many abusive priests continued to live in parish rectories. While they may not have been permitted to perform ministry functions at the parish, this allowed them access to children attending parish schools, masses and other functions without the public having any meaningful way of distinguishing those priests, and the potential danger they

presented, from other Archdiocese priests. Parish and other church residences were not supervised facilities and the abusive priests were free to come and go as they wished and bring children to their rooms. In fact, at least one priest who had been previously diagnosed as an ephebophile brought a child to his room where he sexually abused him.

The Archdiocese seemingly failed to understand that pedophile and ephebophile priests are highly motivated to seek out children, and that assigning them to ministries with reduced exposure to children would not prevent them from seeking contact with children outside of their ministerial assignments. Father Flatley recognized the difficulty in preventing access by these priests to children in these unsupervised residential settings, and he discussed the need to establish supervised residences in the annual reports prepared during his tenure. In the late 1990's, the Archdiocese established a supervised group home in Georgetown, Massachusetts, for priests who had sexually abused children, and it attempted to assign a number of its most dangerous and high-risk priests to the home. While several accepted the assignment, others refused and the Archdiocese was largely ineffectual in its efforts to compel them to move into the home. After only one year, the supervised group home was closed, both because of a lack of funding and a lack of cooperation on the part of abusive priests.

While the Archdiocese took some steps in the 1990's to protect children, including its efforts to restrict ministries and establish a supervised residential home for abusive priests, it again fell short of committing to protecting children from abusive priests. For example, the Archdiocese could have reported abuse allegations to public authorities and relied on those authorities to determine how best to protect children from abusive priests. Instead, the Archdiocese chose to deal with the supervision of abusive priests as internal,

administrative matters. The likelihood that “restricted” ministries would protect children from abuse depended greatly on the abusive priest voluntarily refraining from abusive behavior. With no meaningful degree of supervision, the degree of trust placed in priests with histories of sexually abusing children and the self-policing nature of these assignments failed to recognize the recidivism rates of pedophiles and ephebophiles. In short, children remained at risk even after the Archdiocese identified abusive priests and brought them under the supervision of the Delegate.

CONCLUSION

One of the ways we mark the progress of our society is how we protect our children. In keeping with this essential obligation, the Attorney General sought to address the decisions and practices that led to the massive and prolonged sexual abuse of children by priests assigned to the Roman Catholic Archdiocese of Boston.

Based on that effort, the Attorney General has concluded that the widespread abuse of children was due to an institutional acceptance of abuse and a massive and pervasive failure of leadership. For at least six decades, three successive Archbishops, their Bishops and others in positions of authority within the Archdiocese operated with tragically misguided priorities. They chose to protect the image and reputation of their institution rather than the safety and well-being of the children entrusted to their care. They acted with a misguided devotion to secrecy. And they failed to break their code of silence even when the magnitude of what had occurred would have alerted any reasonable, responsible manager that help was needed.

Still, the failure of the Archdiocese leadership has been too massive and too prolonged, and the Archdiocese has yet to demonstrate a commitment to reform proportional to the tragedy it perpetrated. Therefore, the Attorney General has also concluded that it is far too soon to know whether the Archdiocese has undertaken the types of changes necessary to ensure that abuse has stopped and will not reoccur in the future. New laws enacted by our Legislature create important tools to prevent widespread and systematic abuse of children, and dedicated prosecutors are ready and willing to enforce those new laws. However, until the Archdiocese clearly demonstrates an understanding of what occurred and how to provide a safe environment for its

children, there must be a period of vigilance. This vigilance must come from the public and its officials as well as from members of the church, including priests and the laity. This vigilance must continue until the end of this tragic episode is clear and unmistakable.

To ensure the safety and well-being of children in the care and custody of the Archdiocese and to mark the day when special vigilance is no longer necessary:

1. The Archdiocese Must Demonstrate Over Time Its Understanding That It Is Criminal to Sexually Abuse a Child

The Archdiocese must recognize the enormous harm that results from the sexual abuse of a child. The child sexual abuse in the Archdiocese has affected untold numbers of lives and caused horrific pain and confusion for the victims and their families. That this rape or abuse occurred at the hands of a religious authority figure has only multiplied the cost to the victims. The Archdiocese must demonstrate that it understands that any person who sexually abuses a child commits a criminal offense by effective training, compliance and enforcement of the new legal obligations on clergy and other church workers to be mandated reporters of child sexual abuse.

2. The Archdiocese Must End The Culture Of Secrecy That Has Protected The Institution At The Expense Of Children.

The Archdiocese must adopt a new spirit of openness when it comes to issues related to the protection of children. That includes active involvement of the laity in the implementation of all policies and procedures designed to protect children; communicating fully with pastors, parishioners, and the public concerning allegations of abuse against priests or church workers; full cooperation with law enforcement in any

investigation of alleged abuse; regular public reporting on the progress and implementation of new policies and procedures; and seeking advice and assistance from law enforcement and child protection experts on preventing child sexual abuse and addressing allegations of abuse.

3. The Archdiocese Must Adopt and Implement Comprehensive and Effective Measures to Prevent the Sexual Abuse of Children

Education and training are fundamental aspects of any abuse prevention program. The Archdiocese should direct all necessary resources to create and implement sexual abuse education programs for adolescents, teenagers and religious education students on what constitutes sex abuse and how to respond. The Archdiocese must train all priests, employees, volunteers and adult parishioners to recognize and respond to and report signs of abuse. The Archdiocese must also assure that applicants to the priesthood undergo psychological testing and background checks and must establish a screening and selection process for all other staff, employees or volunteers to identify potential abusers.

4. The Archdiocese Must Appropriately Respond To All Allegations Of Child Sexual Abuse

The Archdiocese must respond promptly to allegations of sexual abuse, including anonymous and third-party complaints, quickly and thoroughly resolve those allegations, and then impose appropriate sanctions. The Archdiocese must immediately report all allegations of child sexual abuse to law enforcement and child protection authorities and remove anyone in a position of authority who fails to do so. The Archdiocese must acknowledge that anyone who sexually abuses a child must be removed and establish a structured and clearly defined oversight and monitoring program for those priests removed or restricted from ministry because of sexual abuse.

5. The Archdiocese Must Be Accountable at Every Level of the Institution for Ensuring the Protection of Children

The Archdiocese must establish a code of conduct that sets boundaries and guidelines for appropriate interactions between priests and other Archdiocese personnel and children. With these standards established, the Archdiocese must hold management, priests, employees and volunteers responsible for complying with all policies and set forth a progressive disciplinary process and penalties for failure to comply. The Archdiocese must appoint members of its various boards and offices related to the protection of children who have relevant experience and who are capable of exercising independent judgment and who are perceived as independent. The Archdiocese must undergo regular independent audits to assure institutional compliance with each and every provision of the policies and procedures.

It is not enough for the Archdiocese of Boston simply to declare a commitment to the protection of children. The Archdiocese must live that commitment through its policies and demonstrated practices. Only when the Archdiocese makes all of these child protection practices a part of its everyday dealings will there exist reliable indicators to declare with confidence that the children within the Archdiocese are safe.

For years, deference was afforded to the Archdiocese when it came to the protection of children. In many ways, that climate allowed these abuses to continue unchecked for so long. Should there be any deference in the future, let it be to the notion that the protection of children comes before all else and to the proposition that abuse of this kind against children must never happen again.

APPENDIX 1: SCOPE OF THE ATTORNEY GENERAL'S INVESTIGATION

The Attorney General's investigation of the sexual abuse of children in the Archdiocese involved eleven Assistant Attorneys General, ten State Police officers, a civilian criminal investigator, five civil investigators, two paralegals, and support staff.¹ The investigative team reviewed personnel files of at least 102 priests alleged to have sexually abused children, including all priests alleged to have abused during Cardinal Bernard Law's tenure as Archbishop. In all, criminal and civil investigators indexed and reviewed more than 30,000 pages of documents obtained from the Archdiocese, and conducted numerous interviews of present and former Archdiocese priests and senior managers, various experts and academics, and victims of sexual abuse by priests.

Early Stage of the Investigation

The Attorney General first received documents from the Archdiocese pertaining to allegations of sexual abuse of children by living priests on March 19, 2002. These documents, produced as a result of a written agreement among the Archdiocese, the Attorney General, and the District Attorneys of the five counties in the Archdiocese,² contained allegations that sixty-nine different living priests sexually abused 214 different children. The Attorney General's investigative team reviewed these records, as well as

¹ The Attorney General is the Commonwealth's chief law enforcement officer, and has broad statutory authority to institute criminal and civil proceedings "for the public interest" and to investigate matters when he believes there may have been violations of law. M.G.L. c. 12, § 10. The Attorney General may also obtain civil injunctions against persons who deprive others of rights secured under the federal or state constitutions or statutes. M.G.L. c. 12, §§ 11H – 11I (Massachusetts Civil Rights Act). The Attorney General also "consult[s] with and advise[s] district attorneys in matters relating to their duties." M.G.L. c. 12, § 6.

² The Archdiocese of Boston is spread over five counties – Suffolk, Middlesex, Plymouth, Essex and Norfolk – each with its own elected District Attorney.

court records, media reports, and information provided by groups representing victims of clergy abuse, ultimately compiling evidence that priests in the Archdiocese had sexually abused at least 789 children in forty-five different cities and towns between 1940 and today. The majority of the alleged abuse took place between 1960 and 1992, although at least thirty-three allegations describe sexual abuse committed after 1992, and at least ninety-four allegations of abuse are undated.

Between April 7 and July 3, 2002, the Attorney General made twelve document requests to the Archdiocese, asking the Archdiocese to voluntarily produce records pertaining to the general issue of sexual abuse of children and all records detailing allegations of sexual abuse of any child since 1960.

The investigative team also reviewed the internal policies and procedures of the Archdiocese; conferred with the Archdiocese and the Cardinal's Commission for the Protection of Children to assist them as they discussed sexual abuse policies, procedures and training programs for the protection of children; analyzed the history of the Catholic Church's handling of sexual abuse allegations; interviewed numerous national experts on child sexual abuse and pedophilia; interviewed non-Archdiocese Canon Law experts, victims of clergy sexual abuse, and attorneys representing victims of clergy sexual abuse in civil suits; reviewed sexual abuse policies from other dioceses; followed the development of the "Essential Norms" by the United States Conference of Catholic Bishops and analyzed the impact of their adoption on canon law and the Archdiocese's policies; and reviewed possible legislative reforms.

Although the investigative team had gathered evidence of abuse allegations dating back to 1940, the investigation focused primarily on the nineteen years – 1984 to 2002 – when Cardinal Law was Archbishop of the Boston Archdiocese, because:

! The applicable statute of limitations would likely bar prosecution of criminal conduct that occurred prior to 1984;

! The two Archbishops who preceded Cardinal Law (Cardinal Medeiros and Cardinal Richard Cushing) are deceased, and the senior Archdiocese managers who served in their administrations have moved to other dioceses, retired or died;

! Expanding the scope of the investigation to earlier years would have substantially lengthened the investigation; and

! The actions under Cardinal Law's administration were most relevant to the consideration of necessary policies and procedures to prevent future abuse.³

Criminal Grand Jury Investigation

The Attorney General's Criminal Bureau initiated a grand jury investigation during the early summer of 2002 because of the slow pace at which the Archdiocese was producing records; the Archdiocese's refusal to voluntarily produce certain categories of important documents, including medical and psychological records of priests evaluated or treated for pedophilia and ephebophilia, correspondence with the Vatican and Papal Nuncio, and related matters; and the fact that important witnesses either had refused to submit to voluntary interviews or had placed unacceptable restrictions and conditions on voluntary interviews.

³ The focal points of the Attorney General's investigation – the continuing risk to children, and the conduct of the Archdiocese and its managers – differed from the investigations being conducted by the District Attorneys who had the important, but narrower, responsibility of investigating and prosecuting individual priests and church workers who were accused of sexually abusing children. The Attorney General believed it was vital to supplement the criminal investigations being conducted by the District Attorneys by delving into the potential criminal responsibility of the Archdiocese as a corporation, and its senior managers, and the systemic issues that permitted the sexual abuse of children to continue for so many years.

The investigative team issued fifty-three *subpoenas duces tecum*, and compelled the Archdiocese to produce documents relating to allegations of sexual abuse of children by priests and other Archdiocese workers; clergy sexual abuse investigations conducted by the Archdiocese; policies, procedures, memoranda and other documents dealing with the sexual abuse of children; and personnel records, including Review Board and disciplinary records, and records of psychiatric and psychological evaluations, counseling and treatment of priests and other Archdiocese workers alleged to have sexually abused children.

The grand jury heard testimony on sixteen different dates from thirty-one witnesses including Cardinal Law, top officials who served during Cardinal Law's tenure, social workers assigned to the Delegate's Office, present and former Regional Bishops, present and former Secretaries of Ministerial Affairs, and officials of Archdiocese's private Catholic schools and the two seminaries. In total, the grand jury marked more than 500 documents as exhibits and heard in excess of 100 hours of testimony.

Efforts to Encourage Improved Policies and Procedures

In April 2002, the Attorney General's Civil Rights Division initiated regular meetings with top officials in the Archdiocese to discuss immediate and long term changes to the Archdiocese's policies and procedures for handling sexual abuse allegations and its commitment to take all necessary steps to ensure the protection of children.⁴ Beginning in June 2002, Assistant Attorneys General from the Civil Rights

⁴ As the Attorney General learned more about the history of clergy sexual abuse within the Archdiocese, it soon became clear that the Archdiocese indeed had failed to put in place the policies and procedures

Division worked extensively with Cardinal Law's recently established Commission for the Protection of Children, a fifteen-member independent panel made up primarily of lay people with some expertise in the area of sexual abuse charged with proposing recommendations for a new sexual abuse policy.⁵ Assistant Attorneys General suggested measures designed to prevent child sexual abuse and provide victim assistance. As part of the work with the Commission, Assistant Attorneys General participated in policy discussions, attended meetings of the Commission's Policy Subcommittee, and provided detailed comments on draft recommendations.

necessary to protect children. As a result, the Civil Rights Division obtained an agreement from the Archdiocese to review any revised policies or procedures before their adoption and publication.

⁵ The Archdiocese also had enlisted the help of VIRTUS, a risk management program established by the National Catholic Risk Retention Group, Inc., a Vermont-based insurance company in which the Archdiocese is a shareholder, for its victim assistance and sexual abuse training programs and to introduce extensive training components in the fall of 2002.

APPENDIX 2: ACCUSED PRIESTS WHO GRADUATED FROM THE ARCHDIOCESE OF BOSTON’S ST. JOHN’S SEMINARY¹

YEAR	# OF GRADUATES	YEAR	# OF GRADUATES	YEAR	# OF GRADUATES
1946	1	1964	3	1982	1
1947	1	1965	2	1983	0
1948	0	1966	2	1984	0
1949	3	1967	3	1985	1
1950	3	1967	0	1986	0
1951	2	1969	0	1987	0
1952	3	1971	3	1988	0
1953	5	1974	3	1989	1
1954	N/A	1972	3	1990	1
1955	6	1973	2	1994	N/A
1956	4	1974	1	1992	N/A
1957	7	1975	3	1994	N/A
1958	1	1986	0	1994	N/A
1959	2	1974	0	1995	0
1960	8	1974	1	1994	0
1961	5	1979	0	1997	0
1962	6	1980	1	1998	0
1963	10	1981	1	1999	1

¹ The graduation year of more than 70 priests was determined conclusively from information within Archdiocese files. For many others, the graduation year was determined by comparing the names of alleged abusers to graduation photos and other records of St. John’s Seminary. However, in some instances, a precise graduation year could not be determined because there was more than one graduate with the same name as an abuser.

**APPENDIX 3: STATISTICS COMPILED FROM OFFICE OF
THE DELEGATE'S ANNUAL REPORT TO THE
ARCHBISHOP**

FISCAL YEAR	AGGREGATE NUMBER OF PRIESTS	AGGREGATE NUMBER OF VICTIMS	ANNUAL TREATMENT COSTS TO PRIESTS	ANNUAL TREATMENT COSTS TO VICTIMS	ANNUAL COST OF LEGAL SETTLEMENTS WITH VICTIMS
1994-95	N/A	186	\$189,073	\$351,292	\$1,535,000
1995-96	N/A	224	\$194,993	\$218,085	\$1,018,000
1996-97	183	285	\$153,734	\$164,155	\$2,365,482
1997-98	188	336	\$39,681	\$142,814	\$10,687,000
1998-99	N/A	N/A	\$25,587	\$134,793	N/A
1999-00	191	402	\$99,702	\$146,080	\$2,265,000

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Sergeant Robert Favuzza, Massachusetts State Police

Sergeant Steve Bennet, Massachusetts State Police

Trooper Mike Farley, Massachusetts State Police

Trooper Lorraine Levy, Massachusetts State Police

Trooper Tina Mazzie, Massachusetts State Police

Trooper Steve Fennessy, Massachusetts State Police

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